

MT LEGISLATIVE HISTORY

Chapter 531 1983

Bill (H) 358 S _____

Original bill & hist. ☒ C

H. Committee on _____

S. Committee on Business & Industry

Hearing Date(s) Jan 28 ☒ C

Hearing Date(s) Mar 19 ☒ C

Feb 08 ☒ C

Mar 22 ☒ C

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Date Out Feb 08 ☒ C

Mar 22 ☒ C

Did this bill originate in an interim committee? ___ Yes ___ No

Committee _____

Report _____

HOUSE BILL NO. 358

INTRODUCED BY J. BROWN, YARDLEY,
J. JENSEN, VELEBER, ADDY

IN THE HOUSE

January 19, 1983	Introduced and referred to Committee on Judiciary.
February 8, 1983	Committee recommend bill do pass as amended. Report adopted.
February 9, 1983	Bill printed and placed on members' desks.
February 10, 1983	Second reading, do pass as amended.
February 11, 1983	Correctly engrossed.
February 12, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

February 12, 1983	Introduced and referred to Committee on Business and Industry.
March 23, 1983	Committee recommend bill be concurrent in. Report adopted.
March 24, 1983	Second reading, concurrent in as amended.
March 28, 1983	Third reading, concurrent in. Ayes, 32; Noes, 16.

IN THE HOUSE

March 28, 1983

Returned to House with
amendments.

April 1, 1983

Second reading, amendments
concurred in.

April 4, 1983

Third reading, amendments
concurred in.

Sent to enrolling.

Reported correctly enrolled.

House BILL NO. 358

INTRODUCED BY

D. Brown J. Jansen

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROHIBIT
DISCRIMINATION ON THE BASIS OF SEX OR MARITAL STATUS IN THE
ISSUANCE OR OPERATION OF INSURANCE POLICIES AND RETIREMENT
PLANS."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Discrimination in insurance and retirement
plans. It is an unlawful discriminatory practice for any
financial institution or person to discriminate solely on
the basis of sex or marital status in the issuance or
operation of any type of insurance policy, plan, or coverage
or in any pension or retirement plan, program, or coverage,
including discrimination in regard to rates or premiums and
payments or benefits.

Section 2. Codification instruction. Section 1 is
intended to be codified as an integral part of Title 49,
chapter 2, part 3, and the provisions of Title 49 apply to
section 1.

-End-

INTRODUCED BILL

HB 358

STATUS SHEET

JUDICIARY

COMMITTEE

48 Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
350	Specifying the time period during which Board of Pardons shall investigate a prisoner to determine his suitability for parole.	1/19/83	Rep. Hammond	1/31/83	Do Pass	1/31/83
355	Revising and clarify the laws relating to evidence.	1/19/83	Rep. Sands	2/2/83	Do Pass	2/4/83
357	Revise the laws relating to immunization and indemnification of governmental employees.	1/19/83	Rep. Donaldson	2/2/83	Do Pass, As Amended	2/5/83
358	Prohibiting discrimination on the basis of sex or marital status in the issuance or operation of insurance policies and retirement plans.	1/19/83	Rep. J. Brown	1/28/83	Do Pass, As Amended	2/8/83
362	Providing a voluntarily induced intox. or drugged condition may not be considered an impairment to a defendant's mental capacity.	1/19/83	Rep. Sands	1/31/83	Do Pass	2/2/83
368	Expanding the scope of appeal by the State in crim. cases by allowing interlocutory appeals on controlling questions of law.	1/19/83	Rep. Sands	1/27/83	Do Not Pass	1/27/83

be a constitutional question as to whether or not the shopper would be entitled to Miranda warnings. The exclusionary rule could apply if such warnings are required but not given.

The hearing on House Bill 327 closed.

HOUSE BILL 358

Sponsor, REPRESENTATIVE J. BROWN, stated House Bill 358 is intended to prohibit discrimination on the basis of sex or marital status in the issuance or operation of insurance policies and retirement plans. REPRESENTATIVE J. BROWN read her testimony from EXHIBIT P.

WOMEN's LOBBYIST FUND representative CELINDA LAKE supported the measure. LAKE read excerpts from EXHIBIT Q.

KATHY KARP, Montana League of Women Voters, supported the bill. EXHIBIT R.

HARRIET MELOY, American Association of University Women supported the concept embodied in House Bill 358. MELOY read EXHIBIT S, a letter from the Past State President of Montana AAUW, Jane Lopp.

Montana Democratic Party representative JOE LAMSON, spoke in support of the bill. LAMSON stated the state of Montana has already enacted many laws prohibiting various types of discrimination in various areas and now discrimination should be prohibited in the insurance industry. LAMSON stated the problem is many of the ideas have a financial impact. Some of insurance policies favor women and some do not. The bill will give an air of equality to insurance. LAMSON felt that ten years from now opponents to this measure will laugh at their own testimony.

Lobbyist for the Montana Federation of Business and Professional Women's Club, ROBIN PUTNAM, was in support of the measure. EXHIBIT T.

RENEE BRERETON, Montana Senior Citizens Association, Inc. was in favor of House Bill 358. The financial burden of health care insurance causes many senior citizens to cancel policies. EXHIBIT U is BRERETON's testimony as read to the committee.

National Organization for Women (NOW) lobbyist LINDA BRANDER read EXHIBIT V in support of the bill.

SENATOR B.F. (Chris) CHRISTIAENS supported the legislation.

NANCY WALKER stated the Montana Education Association supports the bill.

WALKER stated the association finds no discrimination in the insurance coverage but there is sex-based discrimination in the cost of policies. It is not right to discriminate on the basis of sex no matter what the issue is.

WADE OLSON was in favor of the bill. It does not make sense to discriminate on the basis of sex. Senior Citizens have been adversely affected by discriminatory insurance practices.

JULIE FASBENDER, Associated Students of the University of Montana, stated the students are against anything that discriminates. EXHIBIT DD was given in support of the bill by WES KRAWCZYK, A.C.L.U. EXHIBIT EE was given in support of the bill by TERRY LYNN MINOW.

There were no further proponents.

Opponent ROGER McGLENN read his testimony from EXHIBIT W. EXHIBIT X, a letter from Lyndon Olson, Jr. was also submitted by McGLENN.

ELMER HAUSKEN, Lobbyist for the Montana Association of Life Underwriters read EXHIBIT Y in opposition to House Bill 358.

LESTER H. LOBLE, II, represented the American Council of Life Insurance. He was astonished at the statement that life insurance for women is more expensive. Quoting from the Manhart Decision, (Los Angeles Department of Water and Power vs Manhart, 435 U.S. 702 (1978)):

"Although we conclude that the department's practice violated rules set by the Civil Rights Act, we do not suggest that the statute was intended to revolutionize the insurance and pension industry. All that is at issue today is the requirement that men and women make unequal contributions to the employer operated pension plan."

The decision added further:

"Nothing in our holding implies that it would be unlawful for an employer to set aside equal retirement contributions for each employee and that each retiree purchase the largest benefit which his or her accumulated contribution could command on the open market. Nor does it call into question the industry's practice of considering the compensation of the employer's work force in determining the probable cost of retirement or death benefit claim."

The superintendent of insurance of the state of New York has done a study that estimates that for the public retirement system of New York unisex premiums for pension plans would cost between 1.9 and 2.3 billion dollars.

Presently pending before the United States Supreme Court is the case of Arizona Governing Committee v. Norris, (671 F2d 330, 9th Cir. 1982). This case concerns whether the federal civil rights act has been violated by the Arizona state deferred compensation plan. Two bills in Congress that will be heard February 22 may resolve this matter on a national level.

LARRY BABER spoke as an opponent of the bill. EXHIBIT Z.

NORMA SEIFFERT, Chief Deputy Commissioner of Insurance for the state Auditor's Office Insurance Division, stated her office appears as an opponent of the bill. The definition of insurance, is a social device for reducing risk by combining a sufficient number of homogeneous exponents to make individual losses collectively predictable for a group.

In order to change the system with this bill a number of things must occur: (1) statutory law requires the prior approval and filing of insurance forms and contracts with the commissioner. Existing contracts could not be disturbed. In the Rates and Forms Department of her office, both life and auto policies average 19,000 forms a year. The office would need help if the bill is adopted. It would take the office some time to implement the changes. Any contract issued within the state must have prior approval by the commissioner's office.

GLENN DRAKE representing the American Insurance Association and the Health Association of America Read EXHIBIT AA in opposition to the bill.

EVELYN JOPPA was against the bill. She is opposed to it because of the increased costs to women it will cause. In most cases, insurance rates are more unfair to men than to women.

Q. JOHNSON, Northwestern Life Insurance Company, opposed the legislation. JOHNSON gave EXHIBITS BB AND CC - statistics of auto accidents by state and comparing female and male drivers. These statistics are from the National Safety Council.

JOHNSON stated that distinctions based on sex are not necessarily bad. It merely is a matter of picking or choosing. Unfair discrimination however, is "what all the fuss is about". Most state laws say that insurance rates shall not be inadequate, excessive or unfairly discriminatory. If rates are inadequate, insurance companies will go broke. If they are excessive, obviously the insurance companies are taking more money from the citizens than

they should. If they are unfairly discriminatory, it means they are picking and choosing in a manner that is unfair. Most states have statutes providing that risks may be grouped by class for the establishing of rates. The groups are mainly used to measure the difference between expected losses of the individual risk and the average class. As long as the whole class has an average expectancy of one figure, any exception to that should be either rewarded or penalized through the rates.

Automobile insurance has developed quite rapidly. Since automobiles were first developed and World War II, there really was no differentiation in rates. From that time till 1964, a merit system was developed that eventually "died in its own administrative weight." In 1965 the present system was developed. In 1965 the National Bureau of Casualty Underwriters introduced a safe driving plan, which eventually settled into 161 classes. This is what is presently used by insurance companies to compute rates. Age, marital status, occupation are all considered.

There were no further opponents.

In closing, sponsor J. BROWN stated both the opponents and the proponents have made statistics available. However, the real issue is discrimination on the basis of sex or marital status. Society is changing. If the Montana Legislature does not pass this, it is very likely that Congress will. REPRESENTATIVE J. BROWN felt it is unfair that this type of legislation is even needed. There should not be discrimination in insurance or in any other area.

REPRESENTATIVE KEYSER asked CELINDA LAKE of the Women's Lobbyist Fund which insurance companies charge a larger premium for women than the male, as she stated in her testimony. LAKE responded commonly women do not pay more but do not get the same benefits. Research has shown that if women expect to get the same benefits from retirement plans as men do, they are expected to pay more.

REPRESENTATIVE KEYSER pursued by stating that most life insurance for women is cheaper. He felt the statements LAKE has given and the statistics presented in her testimony were false and could not be backed up by facts.

REPRESENTATIVE KEYSER further asked LAMSON how the opponents would be "laughing at their own testimony". LAMSON replied that as years go by people's attitudes often change. They wonder why they stood on a particular issue the way they did.

REPRESENTATIVE ADDY stated that if women would be paying more as a result of the bill, why wouldn't he, as a male, want to vote for the issue? He felt the issue is a political, actuarial and financial question. Those who seem to have the most to lose financially are the proponents.

REPRESENTATIVE ADDY asked if women have higher health insurance rates because of pregnancy. It was replied yes. It is hard to determine the loss of time from work. REPRESENTATIVE ADDY further asked if women are asked to pay higher rates because of their role in society. An insurance spokesman stated the insurance companies do not like to write that because they do not have the figures to base that rate.

REPRESENTATIVE ADDY asked if his rates would be higher if he was black. HAUSKEN replied race does not play a factor in determination of rates. Black people are determined into the rates by their age, life style, etc. People who live in a ghetto are classified with people of similar nature. However, Montana does not have any ghettos.

REPRESENTATIVE ADDY asked about age in the classification of rates. HAUSKEN replied medical science has determined women outlive men because of their biological structure. The rate is changing, however, because more women are working and thus are beginning to have the same work and career pressures as men.

REPRESENTATIVE FARRIS noted she has called different insurance companies to obtain insurance. When her husband calls the same companies, he receives a totally different rate quote although both people have given the same statistics to the companies. HAUSKEN could not reply as to why that has happened. The insurance commissioner should be made aware of that situation.

REPRESENTATIVE FARRIS noted that since 86% of the women die at the same age as men, only 14% of the women live longer, yet 100% of the women are being discriminated against in the rates. BABER replied statistics prove that of all women dying it is less than men of the same age.

REPRESENTATIVE FARRIS asked JOPPA about her statement of "fair discrimination". JOPPA replied she benefits from the lower rates of insurance. In that respect, the discrimination is unfair to my husband and other men.

"A lot of what is unfair discrimination is for my side," JOPPA stated.

REPRESENTATIVE JENSEN asked if current cultural norms are accounted for when determining the tables. BABER replied facts are placed in the tables that are trends.

Minutes of the Judiciary Committee
January 28, 1983
Page fourteen

RANDY KLINE of Blue Cross stated as a previous underwriter in the health business, maternity is not the only reason why women's rates are higher than men's in the health industry. Females have more frequency of disease. Their health care needs are greater.

REPRESENTATIVE SPAETH asked if women make more claims as far as disability insurance is concerned. It was replied because of the nature of health insurance, they do make more claims when it comes to disability insurance.

REPRESENTATIVE RAMIREZ asked if the adoption of the Equal Rights Amendment would eliminate the need for the bill. LAKE personally believed it would.

REPRESENTATIVE DARKO asked if there is a type of policy for women who are of childbearing age but do not wish to have children. HAUSKIN replied insurance is based on studies of averages. There is no way to guarantee the woman will not change her mind.

The hearing on the bill closed.

EXECUTIVE SESSION

HOUSE BILL 307

The motion of DO PASS was made by REPRESENTATIVE JENSEN, seconded by REPRESENTATIVE SPAETH.

REPRESENTATIVE SPAETH moved the bill be amended to include "city or county jails". All were in favor of the motion.

REPRESENTATIVE KEYSER moved DO PASS AS AMENDED, seconded by REPRESENTATIVE SPAETH.

REPRESENTATIVE ADDY moved the bill be amended on page 1, line 25 by striking "less than one year or". The same language on page 2, lines 16 and 17, was also included in the amendment. This amendment would delete the mandatory minimum.

The judge should be able to set the mandatory sentence.

REPRESENTATIVE FARRIS seconded the motion.

REPRESENTATIVE RAMIREZ spoke against the amendment. A one year sentence is so short that it is "almost nothing." The sentence could be suspended or deferred.

REPRESENTATIVE JENSEN supported the amendment. The prisoners are present oriented people and not future oriented. Thus, this bill is not likely to affect their behavior anyway.

HB 358
Exhibit P
1/28/83

Judiciary Committee
1/28/83

Mr. Chairman and Members of the Committee:

For the record, I am Jan Brown, House District 32.

House Bill 358 is a simple bill, prohibiting discrimination on the basis of sex or marital status in the issuance or operation of insurance policies and retirement plans.

The principle of eliminating discrimination based on race, color, religion, sex or national origin is now firmly embedded in U.S. law (and in our Montana Constitution, Article I, Section 4); and discrimination is prohibited in employment, public accommodations, housing, credit, government regulation and benefits, voting and education. However, sex discrimination in the insurance industry is common practice. Women face fewer benefits, reduced availability and differential treatment.

Discriminatory practices cover all areas of insurance. In life insurance, women have limited access to many life insurance options; premium rates are often unjustifiably higher for women than for men; and under some policies, a married woman can purchase coverage only up to the amount of coverage held by her husband.

In retirement and pension plans, premium rates and benefits are computed on the basis of age and sex. The greater longevity of women as a class compared with that of men as a class is cited as the reason for giving women lower monthly retirement benefits. In the 1978 Supreme Court case of Los Angeles vs. Manhart, this was ruled as a violation of Title VII of the Civil Rights Act.

In the area of disability insurance, premium rates are often much higher for women than for men carrying identical or better coverage; it is not available to part-time employees (and women make up about 70% of this category); and it is generally not available to women whose jobs are performed at home.

In health insurance, pregnancy and its related complications are often excluded and premium rates are often much higher for women than for men.

House Bill 358 would prohibit discrimination on the basis of sex or marital status in the issuance of insurance policies and retirement plans, and I would urge the

WOMEN'S LOBBYIST FUND

Box 1099
Helena, MT 59624
449-7917



Exhibit Q
HB358
1/28/83

An Equal "Piece of the Rock" for Women?

WOMEN'S LOBBYIST FUND FACT SHEET ON INSURANCE - HB 358

Women and men are discriminated against in rates and benefits from insurance and pension plans in Montana because such plans are based on gender. HB 358 would make it illegal to discriminate in the issuance of and rates and benefits for insurance and pension coverage.

Insurance: by Patrick and Twiss Butler One Product

Two Prices

Annual Premiums

EACH PRODUCT HAS TWO PRICES—
FEMALE AND MALE. FOUR
EXAMPLES TO COVER A LIFETIME.

AUTOMOBILE INSURANCE

Liability and Physical Damage, rating factors from Insurance Services Office, *Personal Auto Manual*, 1980. Primary classifications. Youthful Operator, Good Student; Unmarried; Owner or Principal Operator; Drive to Work; or Business Use. \$300 base price assumed. Driver marries at age 25.

Age	Female	Male	Female - Male	Total Difference
17	\$320	\$650	-\$230	For 8 years
18	300	510	- 210	Ages 17-25
19	280	480	- 200	
20	260	460	- 200	
21-24	250	450	- 200	
25	250	250	0	-\$1,840

MEDICAL INSURANCE

Hospital-Surgical Policy, State Farm Mutual (Form 97032), * Plan 2: \$100 daily room and board; \$2,000 Surgical. Includes pregnancy complications. Excludes pregnancy, childbirth.

25	\$289	\$187	\$102	For 40 years
40	546	284	262	Ages 25-64
50	573	386	187	
64	599	561	38	\$6,862

DISABILITY INSURANCE

Disability Income Policy, Aftstate Life (Form HU304), * Class 2, \$700/month base benefit. Excludes pregnancy, childbirth, miscarriage, abortion. Includes complications and nonselective cesarean section.

25	\$182	\$128	\$ 54	For 40 years
35	307	149	158	Ages 25-64
45	370	197	173	
55	410	305	105	\$4,854

LIFE INSURANCE AND PENSION

Minnesota Mutual. Retirement Income at 65 Policy (R165). **
Life Insurance before age 65: \$100,000
Monthly pension starting at age 65: 1,000
Pay premiums 20 years. Dividends est. by company deducted

25	\$4,471	\$4,124	\$347	For 20 years
45	3,473	3,179	294	Ages 35-54
54	2,401	2,185	216	\$5,856

For these 4 products, the total price for females exceeds that for males by

\$15,732

* 1981 *Time Saver for Health Insurance*, National underwriter Publication

** 1977 *Minnesota Mutual Life Rate Book*

© 1982, The National Organization for Women

Insurance discrimination is a complicated business, harder to understand than sexism in employment, education or family law. Yet, it grievously affects women. Women face fewer benefits, reduced availability, and differential treatment.

Insurance companies have failed to consider women's changing economic and social roles in their continued use of out-dated statistical tables and insurance practices. Companies generally deal with women as temporary and reluctant members of the workforce.

However, according to the Women's Equity Action League:

42% of all women are now in the workforce. 60% of these women work out of necessity because they are widowed, divorced, unmarried, or they supplement their husband's annual income of less than \$10,000. Women, therefore, need the same access to insurance that men have -- at the same rates.

In Montana women constitute 45% of the non-agricultural wage earners. Women also make up 67% of those earning minimum wage (Department of Labor, March, 1982). The fastest growing sector of the working poor are women who are single parent heads of families. Women need more access to insurance and more equitable rates in order to insure themselves and their families.

Discrimination has severe economic consequences for women. An example of the economic burden on women in insurance discrimination follows:

"Imagine that you're a women with a twin brother... same age, same genes, same neighborhood, same occupation, same insurance coverage. Yet for medical insurance (age 25-64) YOU pay \$6,662 more. For disability coverage (age 25-55), YOU pay \$4,854 more. For a 20-year-payment life/pension policy, YOU pay \$5,856 more. The total penalty for being a women is \$17,372." And this example is far from being the most extreme. (NOW Legal Defense And Education Fund).

Another illustrative example of the dynamics involved in the insurance industry is outlined in a report prepared for the U.S. Commission on Civil Rights on the problems faced by women seeking life insurance. "Some companies say they haven't sold enough insurance to women to get a reliable book of business and a dependable set of their own actuarial statistics. So they load on extra charges to cover their risk. So women are subject to a double whammy. First, they are discriminated against in the sale and pricing of life insurance. And then, because they are neglected and unsold, they pay an extra premium to boot."

Older women bear a particularly heavy economic burden from discrimination in insurance and retirement plans. They less often have coverage -- according to the President's Commission on Pension Policy, October 1980, 49% of men have private pension coverage on their longest held job, compared to 21% of women. Women also receive lower monthly payments when they have paid in the same amount. Older women do not however, have lower rent, lower food costs, etc. Their inadequate retirement coverage is contributing to the "feminization of poverty" among older Americans.

DISCRIMINATORY INSURANCE PRACTICES COVER ALL AREAS OF INSURANCE

I. LIFE INSURANCE

Availability

- Women have limited access to many life insurance options. When these options are offered, the premium rates are unjustifiably higher for women than for men.
- Under some life insurance policies, a married woman can purchase coverage only up to the amount of coverage held by her husband.

Premium Rates

- Insurance companies use male-life expectancy tables to calculate women's premium rates

- for life insurance, giving females a three-year setback. (ex. A 46-year-old woman would pay the same premium rates as a 43-year-old man.) However, current mortality tables show that the life expectancy of a woman is 6-9 years greater than that of a man. And, women are penalized the full 6-9 year difference in pension plans. Thus, female longevity is only partially recognized when premium rates for women are set in life insurance. Even where women would benefit from a sex-based rating structure, their advantage is curbed by insurance laws and practices.
- Men must pay higher premiums for the same amount of death benefit life insurance, or get lesser amounts of insurance coverage for the same premium, than do women. (Ironically, since most men designate women as their beneficiaries, the impact of such smaller amounts of insurance falls on women.)
- For the same amount of whole life coverage and retirement monthly cash value policies women are charged more for the same monthly coverage.

II. AUTO INSURANCE

Premium Rates

- Young men pay higher premiums for auto insurance than do young women. A wry note:
- Insurance leaders often try to persuade women that they get a good deal in insurance because they pay less for auto insurance from age 17 to 25. But if lower female rates from age 17 to 25 are "fair", why stop there? Statistics show that women, life-long have 30% fewer accidents than men. But as of age 25, they pay the same as men!
- Massachusetts, Michigan, and Pennsylvania, among other states, have banned sex discrimination in auto insurance.

III. HEALTH INSURANCE

Availability

- Health insurance of private insurance companies often excludes pregnancy and its related complications from coverage. They claim that pregnancy is a voluntary condition. Yet, other voluntary sex-linked disabilities, for example, those due to vasectomies, prostatectomies, or treatment for venereal disease, are generally covered for men.
- Health insurance policies rarely cover prenatal, postpartum care, family planning, and gynecological disorders and related services.
- Waiting periods for women are usually much longer than they are for men and benefit periods shorter.

Premium Rates

- When maternity benefits are provided, they are substantially lower than cost.
- Female policy holders pay considerably more for health insurance than male policyholders.
- Even without maternity coverage, an Iowa study showed that women pay as much as 50% more than men for identical policies in health insurance.

IV. DISABILITY INSURANCE

Availability

- Disability income insurance is generally not available to women whose jobs are performed at home, while such insurance is available to men with identical job and risk factors.

Premium Rates

- Premium rates in disability insurance are often much higher for women than for men carrying identical or better coverage. Case studies have shown that:

- Ten out of 13 insurance companies surveyed in Pennsylvania charged higher premium rates for women than for men carrying identical or better disability coverage.
- Women are charged rates 150% higher than men in the same job classification in New York for disability insurance.
- A rate differential of 45-115% exists between the sexes in Colorado.

Terms and Condition of Benefits

- Generally, disability insurance policies provide:
 - longer waiting periods for women in number of days an insured must be disabled before benefits are payable.
 - shorter basic periods -- maximum time for which an insured is deemed completely unable to work -- usually 5 years for men, 2 years for women.
 - shorter benefit periods -- maximum time for which the insured is paid benefits -- for women.
- Disability insurance is not available to part-time employees, causing a greater hardship for women who make up 70% of this category.
- Disability income insurance is often excluded for periods of disability resulting from medical or surgical treatment of sex-linked disorders.

V. RETIREMENT AND PENSION BENEFITS

Premium Rates

- Women receive lower monthly retirement benefits than men who have paid identical premiums.
- Premium rates and benefits are computed on the basis of age and sex. The greater longevity of women as a class compared with that of men as a class is cited as the unique reason for giving women lower monthly retirement benefits than men who have paid identical premiums. The U.S. Supreme Court in its 1978 Manhart decision prohibited such disparate treatment between men and women in employer-operated pension plans. Yet, private companies continue to follow such discriminatory practices.

(Sources for the above insurance information are fact sheets on insurance put out by WEAL and NOW.)

DISCRIMINATION ON THE BASIS OF GENDER IS ILLEGAL

Insurance companies could use any number of arbitrary distinctions for their rates, like race and religion. For example, Mormons live longer and blacks have higher mortality rates. These categories, however, are socially unacceptable and specifically illegal. We recognize that sex is an illegitimate classification for employment, housing, education, voting, government benefits, credit, government regulation, public accommodation, etc. Insurance is the most important exception where we still allow discrimination on the basis of sex. We do not allow statistics to legitimize discrimination in any other arena.

The insurance industry has attempted to distinguish use of race-based mortality tables from the use of sex-based tables on the grounds that black mortality has fallen strikingly in recent years. However, for many age groups (including 40 and 50) there is a greater difference between black and white mortality than between women and men according to the National Center for Health Statistics. Others have argued that racial and religious distinctions are socioeconomic, while gender is biological. That sounds familiar but is highly suspect. Mortality rates for women have varied enormously.

In 1920 men lived longer than women for almost all age categories. Today in Hawaii women live 4 years longer than men, while in Wyoming women live 9 years longer. The difference in life expectancy for both sexes between residents of Washington, D.C. and Hawaii is greater than the difference in life expectancy between men and women. Poorly educated women and highly educated women have a greater difference in life expectancy than men and women have... and we could go on and on.

There is starting to be a large collection of court cases suggesting that sex discrimination in insurance is illegal. The U.S. Supreme Court early on ruled that "since sex, like race and national origin is an immutable characteristic determined solely by accident of birth, the imposition of special disabilities upon the members of a particular sex would seem to violate the basic concept of a system that legal burdens should bear some relationship to individual responsibility...Administrative convenience can not justify differential treatment based on invidious gender stereotypes." (Frontiere v Richardson)

The Supreme Court also ruled (Craig v Boren) in a driving case that "In sum, the principles embodied in the Equal Protection Clause are not to be rendered inapplicable by statistically measured but loose fitting generalities concerning...tendencies of aggregate groups."

Currently, there is a suit against sex based rates for disability insurance in Pennsylvania and a class action suit against sex based insurance rates in Nebraska. Already, NOW won a suit to prohibit sex-based auto insurance rates. The most far reaching insurance case concerns pension plans in Los Angeles v Manhart. There the court ruled that because of Title VII protections women in a contributory pension plan cannot be charged higher rates than men in the same plan. The court ruled that "Even a true generalization about the class is insufficient reason for (treating differently) an individual to whom the generalization does not apply... because there is no assurance that any individual woman (or man)...will actually fit the generalization...Many women do not live as long as the average man and many men outlive the average woman." Similar decisions were handed down in the Equal Employment Opportunity Commission v Colby College Teachers Insurance and Annuity Association et al, Spirit v TIAA-CREF and Long Island University, and a case involving the New York City Employees Retirement System.

There have been many other lower court decisions, but the legal process is a very expensive, time consuming, and idiosyncratic way to change the laws. That is why we are proposing HB 358.

In Montana we have particularly strong language under the Individual Dignity section of our constitution which states that no person shall be denied the equal protection of the laws. Under our constitution no corporation, firm, or person can discriminate against another individual on the basis of sex.

AVERAGE PERSON FALLACY

Categorizing people by sex like race is discriminatory. Such categories tend to stereotype on the basis of one characteristic, ignoring other more relevant characteristics of individuals who are unlike in most other ways. Grouping by sex is an administratively easy method of categorizing risk, but much more accurate categories for insurance purposes would include physical condition, family health, leisure time, exercise habits, occupation, personality characteristics, life style, etc. Insurance rates should be based on risk, but categorizing risk by sex is discriminatory and inaccurate.

How does the insurance industry get away with charging women more? By arbitrarily using gender as the principal basis for comparison of risk factors, insurers argue that this is "fair" discrimination because the "average" woman submits more medical and disability claims, and lives longer to collect more pension money than the average man. This is despite the fact that women have shorter hospital stays and lose fewer working

COMPANIES AND STATES WHICH HAVE MOVED TO UNI-SEX RATES

Some companies are developing policies that do not discriminate on the basis of sex or marital status. Equitable Life Insurance of New York and Monarch Life Insurance of Springfield, Mass. have established unisex rates for disability insurance. Two other companies are in the process of registering such rates. Horace Mann has a joint life insurance plan which averages rates and benefits. The Government's Civil Service Retirement Plan annuity and life plans do not vary by sex. The Teacher's Insurance and Annuity Association and College Retirement Equities Fund with 600,000 subscribers in 3300 colleges and universities has decided it is "actuarially sound" not to base their plans on gender. The Montana Public Employee Retirement System no longer discriminates on the basis on sex. The Commercial Union Insurance Cos. in 40 states has developed a custom auto program that does not use sex to classify rates but uses driving experience, vehicle use, mileage, driving record, claim history, vehicle safety, model, model year, etc. The National Association of Insurance Commissioners concluded that, "as rating characteristics, sex and marital status are seriously lacking in justification...and should therefore be prohibited as classification factors" in auto insurance.

Massachusetts, Michigan, Pennsylvania, Illinois, New York, Hawaii, and North Carolina have all banned discrimination in auto insurance based on gender. Arkansas, California, Florida, Illinois, Kentucky, Maryland, Michigan, Missouri, New Hampshire, New Jersey, Pennsylvania, and Utah do not permit discrimination in issuing or renewing insurance based on sex.

GROUPS WHICH NATIONALLY ENDORSE PROHIBITING SEX DISCRIMINATION IN INSURANCE

On the national level many organizations have supported prohibiting discrimination in insurance on the basis of sex:

- AFL-CIO and other labor organizations
- American Association of University Women
- Americans for Democratic Action
- Business and Professional Women
- Federally Employed Women
- Federation of Organizations for Professional Women
- Leadership Conference on Civil Rights
- National Council of Jewish Women
- National Organization for Women
- National Women's Political Caucus
- Senior Citizen Groups
- Wider Opportunities for Women
- Women's Equity Action League

working days, even counting childbirth. This is despite that fact that 86% of women do not outlive their male counterparts, and women are therefore being penalized for the 16% who do. The California Department of Employment has shown that sex has almost nothing to do with the duration of a disability or the average days lost due to a disability and in fact age and income are far better predictors of time lost than gender.

The results are similar for other areas of insurance. In any year 90% of both men and women under 29 will not have any car accidents. Contrary to popular belief fed by the insurance companies, gender is a very weak proxy for auto accidents. Studies in California and New Jersey show that on a mileage-adjusted basis girls actually have more accidents than boys. The Commission report in New Jersey stated, "Sex in contrast to industry claims has very little explanatory power and does not create homogeneous groups. Sex is not an accurate predictor of accident risk. Sex is able to explain less than 5% of the total variation in risk and yet is responsible for rate differentials of many times greater magnitude. This results in large overcharges to many of the state's drivers...It can be concluded that the use of sex as a factor violates the principle of actuarial fairness and should not be used. Gender based grouping does not reflect essential differences and results in large subsidies..."

Gender is fast losing whatever very limited validity it had as a base for categorizing risk. Men and women are becoming more similar in life patterns as women take on more roles outside the home and more life style habits which were once reserved for men. The variance in men's and women's mortality and morbidity patterns is also increasing, making the "average" man and women harder and harder to find and stereotypes more and more inaccurate.

COST FOR THE FEMALE CONSUMER

It is frequently argued by the insurance companies that uni-sex rates and benefits for insurance will increase rates. Presently, there are inequities in both men and women's rates, adjustment should balance these. The shift in costs for different types of insurance should result in fairer rating systems for all. It would be very short-sighted of the insurance companies to "adjust" rates by increasing them across the board. If the insurance industry is really competitive and subject to the forces of the free market, then companies will identify real risk categories (as they have already done with smokers, drinkers, and good health risks for life insurance and geographic district for auto insurance) to allow them to compete for a larger share of the market and keep their profit margins.

As we will note later, companies are already moving to uni-sex rates and there have not been across the board increases in rates. Equitable has developed unisex rates for disability insurance, expanded coverage, and lowered rates according to their New York office. In states where discriminatory policies have been prohibited for auto insurance, rates for men have decreased and rates for women have only slightly increased.

Potentially, one of the greatest financial impacts would be topping out existing pension plans. The U.S. Labor Department estimates that the unfunded liability nationally for private pension plans would only represent 1/1000 of the industry's assets and reserves. The U.S. Senate's Committee on Commerce, Science, and Transportation in its report on fair insurance practice asserted "that the industry cost data substantially overstates the likely cost of providing equal benefits". (November, 1982)

The bottom line, however, is that cost must not over-ride considerations of equity. The same cost arguments were used when the insurance industry was using race based tables and we did not allow cost to over-rule justice.

HB 358
Exhibit R
1/28/83

WITNESS STATEMENT

Name Kathy Karp Committee On _____
Address Helena Date 1-28-83
Representing LWV of Montana Support X
Bill No. HB 358 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. The League of Women Voters of Montana supports H.B. 358. The League has always supported
2. equal rights for all & believes that everyone should be free from discrimination for reasons of race, creed,
3. color, national origin, sex & religion. The present insurance & retirement plans are not in accordance with the equal rights provisions of the Montana
4. constitution. For these reasons the League supports H.B. 358.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

Re: House Bill 358

January 27, 1983

HB 358
Exhibit S
1/28/83

JUDICIARY COMMITTEE
MONTANA HOUSE OF REPRESENTATIVES
DAVE BROWN, CHAIRMAN

Chairman Brown and Members of the Committee:

The American Association of University Women (AAUW), supports the concept of nondiscrimination in insurance and pension programs. We believe it is time to end pervasive sex discrimination in one of America's largest and most important industries. Women should not be penalized as a class. Other forms of rate assessment can be carried out to determine rates.

We have appreciated President Reagan's concern about these inequities and hope that the Montana Legislature would take quick and effective action to remedy past injustices.

As a member of AAUW, I urge your consideration of legislation that would remedy these inequities.

Jane Lopp

Jane Lopp,
Past State President,
Montana AAUW

*Presented by Terrell McLaughlin, Helena
Legislative Chair, Helena Division AAUW
Past President, Montana Division, 1971-72*

WITNESS STATEMENT

HB 358
Exhibit T
1/28/83

NAME Robin Putnam BILL No. 358
ADDRESS 1497- Mineral Rd. DATE 1/28
WHOM DO YOU REPRESENT Montana Federation of Business AND
Professional Women's Club,
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

The Montana Federation supports
the elimination of discrimination on
the basis of sex in all types of
insurance AND pension plans. We
urge your committee to pass
HB 358.

Montana Senior Citizens Assn., Inc.

WITH AFFILIATED CHAPTERS THROUGHOUT THE STATE

P.O. BOX 423 - HELENA, MONTANA 59624



406) 443-5341

28 January 1983

HB 358

Exhibit U

1/28/83

Mr. Chairman,

My name is Renee Brereton; I'm a staff person for the Montana Senior Citizens Association. I am here today to testify in support of H.B. 358. As this committee is well aware, the financial picture for many older citizens is bleak. Our members are concerned about the future of Social Security and Medicare, to say nothing of the social programs being pared back by the state. These concerns are even more pronounced for older women, as they constitute the fastest-growing population segment falling below the poverty level.

Our members under age 65 have brought to our attention the fact that health insurance coverage for women in this younger age category is priced substantially higher than for men in the same age category. This problem is severe, since a significant portion of these women are either widowed, divorced or employed at low-paying positions.

This financial burden frequently results in many having to surrender their health insurance policies. Their inability to afford medical insurance results in unpaid debts for hospitals and less-than-adequate health care for individuals without insurance coverage.

(2)

We are hopeful that this committee will take the option open to them and investigate these and similar problems, seeking a solution to rectify variation in insurance rates.

HB 358
Exhibit V
1/28/83

My name is Linda Brander and I am representing the National Organization for Women (NOW) which has a strong member ship in Montana, 200,000 members nationwide.

Through court cases, activities at state levels and action on national legislation, the NOW Legal Defense & Education fund has been working to overturn laws & assumptions that allow the insurance industry to arbitrarily use gender as the principal comparison of risk factors.

Why is gender acceptable as a basis for rate differentiation, when other factors such as race & religion are not considered? Using such comparison factors are unacceptable, nonrespectable & unconstitutional.

In the case Los Angeles v. Manhart 1978, the supreme court ruled that women in contributory pension plans cannot be charged higher rates than men for participating in the same plan. Studies revealed that 86% of the females had the same death rate as the men. Women are being penalized for the 14% of women that outlive their counterparts.

Insurance discrimination is a complicated arduous business that is difficult to understand. However, it has been recognized that it is unfair to generalize about a class on the basis of gender. There is no assurance that any individual, woman or man will fit into the general categories. Insurance companies have failed to consider the changing economic and social roles of women. They continue to use outdated statistical tables. The insurance industry needs to consider factors such as smoking habits, physical conditions, recreational & occupational activities.

In closing, I urge this committee to pass HB 358 and end the insurance discrimination that affects thousands of Montana women.

HB 358
Exhibit W
1/28/83

REGARDING HOUSE BILL NO. 358

To: The House Judiciary Committee
From: Independent Insurance Agents' Association of Montana
Date: January 28, 1983
Re: Opposition to House Bill No. 358

The Independent Insurance Agents' Association of Montana hereby indicates its opposition to House Bill No. 358. Our concern with this bill is the far reaching effects to the Montana Insurance Consumer. We respectfully submit the following information we have been able to gather regarding the issue of sex and marital status in insurance classifications:

A decision regarding alleged unfair discrimination in private passenger automobile insurance rating has been rendered by the 19th Judicial District Court of the State of Louisiana. That court heard the appeal of Insurance Service Office, State Farm, Allstate vs. Commissioner of Insurance, State of Louisiana and held that rating by age and sex is not unfairly discriminatory. The Court also stated, "the conclusion that the use of age and sex in setting insurance rates is unfairly discriminatory is a manifestly erroneous conclusion and not supported by evidence". "Age and sex have been used in Insurance rating for some time in Louisiana and virtually everywhere else as valid rating criteria. Markets have been generally maintained by matching premiums to expected loss in insurance. These criteria meet the standards of definition, practicality and homogeneity." "The criteria are rationally related to a legitimate state objective and although they create a degree of discrimination to a very isolated segment of those classes, they are not unfairly

discriminatory and shall be allowed to continue."

The Insurance Services Office, (ISO), in a report to the National Association of Insurance Commissioners, (NAIC), Rating Procedures Task Force in 1978, stated: "we wish to point out during the past year, one of ISO's highest priorities has been the search for new rating variables which are practical and which could replace sex and marital status without causing severe economic dislocations in the marketplace. Quite frankly, after a year's labor we, as well as many individual insurers, have been unsuccessful in this effort but have committed our resources to continue to search aggressively for these variables."

"Severe market dislocation would occur in private passenger automobile insurance should any of the rating criteria now in use be eliminated without adequate substitutes. Such dislocation would, of course, create future problems for both the industry and the regulators. ISO has calculated the effect of eliminating sex and marital status from our classification plan without substitutes. This elimination would result in approximately 9% of our insureds receiving reductions in premium of up to 39% with an overall average of 25% for this group of insureds. On the other hand approximately 81% would receive increases up to 32% for an overall average 6% increase."

Mr. George K. Bernstein, a consultant for the American Insurance Association, (AIA), a lawyer specializing in insurance theory and its practical application, stated:

"Insurance may not be an exact science, but neither can it survive if it is transformed into a mechanism for the reallocation of wealth. It is a system designed to transfer risk and spread loss and if it is to continue, it must operate under standards that lend themselves to risk assessment and reasonable fair pricing."

The following is a statment given to the U.S. Senate subcommittee in January of 1978 by the National Association of Insurance Commissioners

"Classifications are essential to the private competitive system since individual insurers rely on the ability to attract business by quoting an attractive price...

"Given the freedom to contract, it is natural for insurance companies to avoid or to price-up buyers who, in their judgement, offer a greater loss potential or risk than those who characterize the insurable class."

The following point is made in an article on GOVERNMENT AND INDUSTRY AFFAIRS from the U.S.F.&G. Insurance Company entitled, SUBSIDY CREATES REVERSE DISCRIMINATION:

In a freely competitive system, rates will be higher when the risk is perceived to be higher and lower when the risk is low. This form of "discrimination" is a normal and necessary insurance business practice. Eliminating the ability to maintain such distinctions creates a subsidy, not insurance. Sanctioning a subsidy means practicing "reverse discrimination," or denying those at lowest risk the benefit of their group's superior experience. Governments may be appropriate creators of subsidies; private industry is not.

We will not reiterate here the numerous justifications for sex-based distinctions in insurance. These arguments have been ably made by actuarial experts and industry spokesmen. Even critics do not dispute these facts; they do question, however, the industry's conclusion that is therefore "fair" to use these distinctions in pricing."

Here is one of the conclusions reached by the Florida Insurance Research Center of the University of Florida's College of Business in "An Evaluation of Risk Classification System in Automobile Insurance"

conducted for the Florida Department of Insurance:

"On the basis of the material reviewed for this study, age, sex, and marital status achieve a higher predictive accuracy in comparison to the other variables of driver experience and driver record. Moreover, when all variables are considered together, the predictive ability is further increased."

Another independent study was completed by the Stanford Research Institute in May of 1976 on a study of risk assessment processes. This study was conducted for the American Insurance Association and others, that concluded:

"While room for improvement exists, the precision of current risk assessment processes may in fact be relatively near the practical limit imposed by current scientific knowledge and economic factors. Government attempts to control the way insurance companies measure risk are both ineffective and harmful to the consumers."

"Restrictions on the risk assessment process lead to market restrictions, subsidies among consumers, and availability problems for some groups of consumers. We therefore conclude that risk assessment should not be restricted and that insurers should be free to make full use of classification information."

Any of the reports referred to in this statement may be obtained in their complete form from our office here in Helena.

In the interest of the Montana Insurance Consumer, we urge that the House Judiciary Committee report House Bill No. 358 out of committee with a do not pass recommendation.

Respectfully submitted by:

Roger McGlenn Independent Insurance Agents' Association of Montana

H.B. 358
Exhibit X
1/28/83

Excerpts from November 4, 1982 Letter
to Senator Robert Packwood from Lyndon Olson, Jr.,
Immediate Past President - NAIC

Dear Senator Packwood:

As President of the National Association of Insurance Commissioners, I urge you to reconsider your efforts to pass S. 2204, the so-called "Fair Insurance Practices Act." While the objectives of this bill are salutary---no one can disagree with requiring "fair insurance practices" and indeed, the NAIC as an organization has drafted and supported model legislation to this very end---the practical effects of this bill would be less laudable.

The discriminatory actions referred to in the bill regarding "availability of insurance" are already illegal, under both federal and state laws. Thus these sections of the bill are unnecessary.

The primary thrust of the bill which is attracting nearly all of the attention and testimony is "sex discrimination" as it may apply to the use of gender as a rating classification in insurance. It should be noted that although a number of states have restricted the use of gender for private passenger automobile insurance, gender generally is recognized as a legitimate actuarial rating factor for life and health insurance. Moreover, we do not believe that adequate attention has been given to the practical effect which enactment of this bill would have in the pension and annuities fields. The entire subject has received and will continue to receive close scrutiny at the state level.

Further, the declared policy in Sec. 2(b) is totally inconsistent with the McCarran-Ferguson Act. Some state laws require gender based distinctions in the setting of rates or require that certain statistics, which use sex as a category, be used for determining claims ratios, and for solvency and reserving practices. It is wrong and contrary to the spirit if not the letter of the McCarran-Ferguson Act at the Federal level to make the determination of what are legitimate insurance rating practices at the state level...

Clearly, opposition to this bill is not, and should not be, construed as opposition to women's rights or support for discrimination. As commissioners, we are charged with protecting all consumers---regardless of their sex. Where insurance practices have in fact been unfair and prejudicial, the NAIC and individual

-States have previously acted to eliminate these practices. But certainly, the setting of rates should continue to be based on actuarially sound distinctions and real statistical differences where they exist, such as significant mortality differences between men and women. This is not a biased or unfair practice which is discriminatory, and we believe that all consumers would lose if this bill were passed...

Excerpts from January 4, 1983 Letter
to The Honorable Edwin Meese, III from
George K. Bernstein, Attorney at Law

Dear Mr. Meese:

RE: Fair Insurance Practices Act (S. 2204 in 97th Congress)

I represent the American Insurance Association and the New York State Teachers' Retirement System in opposing S. 2204, The Fair Insurance Practices Act, and such similar legislation as well be introduced by Senator Packwood and others in the 98th Congress.

That bill, misnamed, and improperly cloaking itself in the mantle of women's rights legislation, not only rejects basic principles of insurance and establishes federal regulation of insurers, but also imposes billions of dollars in annual costs on employers and individuals throughout the United States...

Ordinarily, legislation like S. 2204 that would prohibit insurers from basing their premiums and benefits on actual losses and expenses would be dismissed as absurd--particularly when such practices are the essence of insurance. Moreover, legislation that would overrule all state insurance laws requiring rates and benefits to be predicated on experience usually could be expected to receive little serious attention.

Unfortunately, Washington has not shown an interest in either the principles of insurance or the benefits of state regulation when confronted with a bill whose advocates invoke, however inaccurately, women's rights as its justification. Accordingly, in this letter I am addressing, primarily, two other issues that cannot be ignored--the cost implications of S. 2204 type legislation, and the fact that such legislation is not even beneficial to women...

S. 2204 not only prospectively shifts costs arbitrarily between men and women by mandating that loss experience and life expectancy of the two sexes be ignored, but also retroactively imposes billions of dollars in costs on corporate and public pension plans, employers and insurance companies by lowering premiums and raising benefits on contracts already in effect.

At a time when our economy is already suffering, when many pension plans are currently underfunded and in serious danger, ... when the Pension Benefit Guaranty Corporation is known to be in financial difficulty, ... and when employers are desperately searching for economies to avoid additional lay-offs it is incredible that

-this Administration has thus far been silent on legislation that would worsen each of these situations and that violates the very principles of government and private enterprise that the President espouses.

The cost of S. 2204 type legislation to pension plans, private and public, has been calculated by the American Academy of Actuaries at \$5.5 billion each year. If recent events involving insurance projections are any guide, that estimate will prove low ...

The Financial Accounting Standards Board has just proposed a change in financial reporting requirements. Under it, pension plan liabilities will have to be carried on the profit and loss statement of the parent employer. Even without this requirement, many such corporations will become insolvent and a greater number will suffer significant loss of stock value under S. 2204 type legislation. When the FASB requirement takes effect, many more corporations will become insolvent ...

With respect to public pension systems, currently hard pressed states and localities will be unable to afford the liabilities imposed by legislation like S. 2204. In New York State, alone, where such added unfunded liabilities would be at least \$2 billion for just the New York State and City teachers' and employees' retirement systems, the Superintendent of Insurance has already advised that eliminating sex based actuarial consideration could "bankrupt the state and its political subdivisions" ...

The impact on life insurance companies could be equally devastating. Large and small insurers, forced to absorb billions of dollars in retroactively mandated costs of reduced men's premiums and increased women's cash surrender values on life insurance policies in force, and with concomitant obligations on existing annuity contracts, will suffer enormous reductions in surplus. Many will not survive ...

After studying the legislation, both state insurance regulators through the National Association of Insurance Commissioners and state legislators through the Conference of Insurance Legislators condemned both the concept and content of S. 2204. They opposed the bill as unsound, undesirable and anti-consumer.

Insurers also opposed the bill, but despite testimony on the dangers and cost of this type of legislation, very few members of Congress are even aware of the issues involved. Nevertheless, S. 2204 was reported in the Senate, where only the Chairman had attended the Commerce Committee hearing. During the five minute mark-up at

Exhibit Y 1/28/83

Mr. Chairman, members of the Committee, I am Elmer Hausken, Lobbyist for the Montana Association of Life Underwriters.

My association is opposed to HB358 and asks for a do not pass designation because:

Gender based risk classification is scientifically the most accurate and economically sound method of risk classification. While it may be attacked sociologically or philosophically as unequal, it remains the only pure equity based system that assesses risk in the fair and actual proportions reflected by practice and performance.

To change to the so-called unisex system would incur highly disproportionate and unequal risks and it follows that costs must rise, or fall as reflected. Ultimately the costs become enormous and all people are punished (discriminated against, if you will) by paying money for risks they haven't incurred.

The National Academy of Actuaries, who take no position for or against unisex rates, gives a few facts on a nationwide basis of unisex rating. It would:

- (1) Increase women's auto insurance by \$700 million a year.
- (2) Increase life insurance premiums for women by \$360 million a year.
- (3) Increase health insurance premiums such that medical expense insurance for women would increase \$16 million annually. Income disability insurance for men would increase \$94 million a year.
- (4) Increase the cost of pension plans by \$1 billion to as much as \$5.5 billion annually. It is not unreasonable to expect that a large amount of small pension plans would quickly terminate due to increased costs. City, County, State and Federal pension plans would require increases in taxes to reenforce the underfunding that would occur.
- (5) The cost to change over and implement such rate structures would cost \$1.345 billion the first year. Costs are always born by policyholders and taxpayers as the case would reflect.

Standard Research Institute of Stanford University substantiates these same findings and the 19th Judicial District Court of Louisiana in a ruling dated April 15, 1978, held the system of rating by age and sex is not unfairly discriminatory, saying age and sex are valid criteria, specifically because they meet the standards of definition, practicality and homogeneity.

"Insurance may not be an exact science, but neither can it survive if it is transformed into a mechanism for the reallocation of wealth. It is a system designed to transfer risk and spread loss and if it is to continue, it must operate under standards that lend themselves to risk assessment and reasonable fair pricing."

the regular session of the 97th Congress, the other Committee members were not apprised of the cost projections made by insurers at the hearing.

No other cost estimates exist to contradict those of the insurance industry. Not a single study has been done by Congress or those supporting S. 2204 type legislation, not even in the multi-billion dollar area of pension costs. The sponsors admit that as far as they are concerned, the cost of the legislation is secondary to their view of social policy contained in the bill.

The bill has come as far as it has because it has been sold as civil rights and "women's" legislation and no one in government has spoken up to the contrary.....

In fact, S. 2204 and its concepts are not in the best interest of women ...

It is unlikely that many women would be supportive of legislation that forces insurers to ignore women's lower accident experience and charge them at least \$700 million a year more for automobile insurance.

Nor is it likely that many women would endorse legislation that prohibits insurers from crediting women with their greater life expectancy and requires them to pay at least \$360 million a year more for life insurance.

Moreover, actuarial studies show that even in the pension and annuity area, the major beneficiaries of the billions of dollars in annual costs mandated on employers by S. 2204 type legislation are likely to be men rather than women (Because of the reduced cost of men's survivor options that employers and plans will have to absorb.) ...

Legislation like S. 2204 would have disastrous economic impact; it would prohibit the continued use of essential elements of the insurance process; it would destroy insurance as a non-political economic mechanism; and it would supercede state insurance law by imposing a federal regulatory system. Such significant legislation should be addressed on the merits rather than acquiesced in because of its unwarranted invocation of women's rights.

We urge the Administration to actively oppose such legislation before it is too late...

HB 358
Exhibit 2
1/28/83

TESTIMONY OF LARRY BABER:

PRINCIPAL OF MILLUMAN & ROBERTSON, INC. & CONSULTING ACTUARIAL FIRM. FELLOW SOCIETY OF ACTUARIES AND A MEMBER, AMERICAN ACADEMY OF ACTUARIES.

I DO NOT REPRESENT MY FIRM OR THE ORGANIZATIONS OF WHICH I AM A MEMBER. I DO VOICE THE FEELINGS OF MANY OF MY COLLEAGUES.

PROPOSED LEGISLATION HOUSE BILL 358 APPEARS TO BE MOTIVATED BY A DESIRE TO ASSURE FAIR TREATMENT FOR WOMEN. IN MY OPINION, IT IS DETRIMENTAL TO SOCIETY AS A WHOLE AND TO THE BUSINESSES THAT PROVIDE INSURANCE AND PENSION BENEFITS.

THE BASIS OF INSURANCE AND PENSIONS IS THE POOLING OF GROUPS OF PEOPLE WITH SIMILAR ATTRIBUTES AND THEN TREATMENT OF ALL MEMBERS OF EACH GROUP ON AN EQUAL BASIS. IN MAKING UP THE GROUPINGS WE CONSIDER MANY FACTORS. SEX IS FREQUENTLY ONE; AGE, OCCUPATION AND MEDICAL HISTORY ARE EXAMPLES OF OTHERS.

HOUSE BILL 358 APPEARS TO SAY WE MUST IGNORE SEX AS ONE OF THE BASIS OF DETERMINING THESE SIMILAR GROUPS OF RISK.

IN LIFE INSURANCE IT WILL BE AN INJUSTICE TO WOMEN SINCE STATISTICALLY THEY HAVE A RIGHT TO LOWER PREMIUMS.

IN PENSIONS THE EFFECT WOULD BE DIFFERENT DEPENDING UPON WHETHER THE PLAN PROVIDES A MONTHLY INCOME OR ACCUMULATES MONEY. WITHOUT SPECIFYING A RETIREMENT INCOME.

PLANS THAT PROVIDE SPECIFIED MONTHLY INCOME WILL BENEFIT FROM THIS BILL WHEREAS THERE WILL BE A NEGATIVE IMPACT ON MONEY ACCUMULATION PLANS. GOVERNMENT PLANS AS WELL AS PRIVATE EMPLOYER PLANS WILL FACE SIGNIFICANT COST INCREASES IF THEY PROVIDE A MONEY ACCUMULATION PLAN. IF THIS TYPE OF LEGISLATION IS PASSED, THE AMERICAN ACADEMY OF ACTUARIES HAS ESTIMATED ON A NATIONWIDE BASIS:

- . LIFE INSURANCE COST TO WOMEN WILL INCREASE BY \$360 MILLION.
- . AUTO INSURANCE COST TO WOMEN WILL INCREASE BY \$700 MILLION.
- . WHILE THESE TWO FIGURES TOTAL OVER A BILLION DOLLARS - HEALTH INSURANCE COST FOR WOMEN WILL DECREASE BY LESS THAN \$400 MILLION.
- . PENSION COSTS ARE ALMOST IMPOSSIBLE TO PREDICT SINCE THE IMPACT CAN GO IN EITHER DIRECTION.

IN ANY EVENT, I AM CONVINCED COMPANIES WILL BE COMPELLED TO CHARGE THE HIGHER COST OF MEN OR WOMEN FOR ANY OF THESE SERVICES IN ORDER TO ASSURE THEIR SOLVENCY.

TESTIMONY OF LARRY BABER - CONTINUED:

THIS BILL IS PHRASED IN SUCH BROAD AND GENERAL TERMS IT IS DIFFICULT TO TELL WHETHER IT IS INTENDED TO APPLY TO LIFE INSURANCE AND ANNUITY CONTRACTS ALREADY IN FORCE AS OF ITS EFFECTIVE DATE.

IT SEEMS TO ME IT COULD BE INTENDED TO APPLY TO THE NEARLY 500,000 CONTRACTS IN FORCE IN THE STATE OF MONTANA. TODAY THESE CONTRACTS ARE LEGALLY BINDING ON BOTH THE CONTRACT OWNER AND THE INSURANCE COMPANY. I AM NOT AN ATTORNEY BUT I DON'T SEE HOW THE INSURANCE COMPANIES CAN UNILATERALLY CHANGE THESE CONTRACTS, MANY OF WHICH ARE OF A LONG TERM NATURE.

THERE ARE A NUMBER OF AREAS THAT COULD BE DISCUSSED BUT I'VE TRIED TO BE BRIEF IN COVERING A VERY COMPLEX MATTER. I APPRECIATE HAVING THE OPPORTUNITY TO MAKE THESE REMARKS. I WOULD BE HAPPY TO ANSWER ANY QUESTIONS.

HB 358
Exhibit AA
1/28/83

HB-358

STATEMENT OF GLEN L. DRAKE ON BEHALF OF THE
AMERICAN INSURANCE ASSOCIATION AND THE
HEALTH ASSOCIATION OF AMERICA

The American Insurance Association, a trade group of casualty insurers, and the Health Association of America, a trade group of accident and health insurers, both have the same problem with HB 358.

HB 358 will create and force unfairness and inequity in the insurance marketplace.

It should be first understood that these groups do not object to a prohibition on sex discrimination on the question of insurance availability. They do object to such prohibition on the questions of rates and benefits.

Insurance underwriting, be it life, health, fire or casualty, is all based upon a system of risk classification so that classes with similar risk experience all share in the benefits or liabilities of their respective group. To do otherwise would wrongfully penalize one group in favor of another.

Sex does play a large part in risk classification, and properly so. A dramatic illustration of the correctness of consideration of sex in rate determination is shown in the National Safety Council "Accident Facts 1981 Edition," a copy of which is attached.

These facts are so compelling that no other comment need be made.

Auto liability insurance is now rated in consideration of these facts. To deny the use of such statistics would be grossly unfair to all female drivers.

I urge you to vote do not pass on HB 358.



approximate number in each age group is shown in the table below, along with each group's accident experience for the year. The figures in the last two columns at the right indicate the frequency of accident involvement; the higher the number, the higher the involvement in each age group.

of Drivers—Total Number and Number in Accidents, 1980

Age Group	All Drivers		Drivers in Accidents				Per No. of Drivers	
	Number	%	Fatal	%	All	%	Fatal*	All**
Total	146,000,000	100.0%	68,300	100.0%	29,800,000	100.0%	47	20
20	14,300,000	9.8	10,800	15.8	5,000,000	16.8	76	35
	17,400,000	11.9	14,200	20.8	5,900,000	19.8	92	34
	17,500,000	12.0	9,700	14.2	4,400,000	14.8	55	25
	16,800,000	11.5	3,300	4.8	3,500,000	11.7	49	21
	13,900,000	9.5	4,800	7.0	2,200,000	7.3	35	16
	11,700,000	8.0	4,700	6.9	1,300,000	4.4	40	16
	11,400,000	7.8	3,800	5.6	1,600,000	5.3	33	14
	11,700,000	8.0	2,900	4.2	1,300,000	4.4	25	11
	10,100,000	6.9	2,600	3.8	1,300,000	4.4	26	13
	7,500,000	5.2	2,200	3.2	900,000	3.0	29	12
	6,400,000	4.4	1,700	2.5	1,000,000	3.4	27	16
	4,400,000	3.0	1,200	1.8	300,000	1.0	27	7
Over	2,900,000	2.0	1,400	2.0	500,000	1.7	48	17

ce Drivers in accidents based on reports from 13 state traffic authorities. Number of drivers by age are
onal Safety Council estimates based on reports from state traffic authorities and research groups
ers in Fatal Accidents per 100,000 drivers in each age group
ers in All Accidents per 100 drivers in each age group

of driver



Of the estimated 146,000,000 drivers in 1980, about 77,700,000 are males and 68,300,000 are females. Males are involved in more accidents than are females, as shown in the table below. The difference is due at least partly to differences in the amount of driving done by the members of each sex and to differences in time, place, and circumstance of the driving.

of Drivers Involved in Accidents, 1965-1980

Year	Drivers in Fatal Accidents				Drivers in All Accidents			
	Male		Female		Male		Female	
	No.	Rate†	No.	Rate†	No.	Rate††	No.	Rate††
50,300	78	8,900	37	18,300,000	282	5,300,000	221	
54,600	81	9,700	37	16,600,000	276	5,700,000	218	
54,600	80	9,900	35	15,500,000	272	5,800,000	205	
59,500	84	10,500	35	19,200,000	275	6,400,000	211	
59,800	80	10,900	33	20,000,000	269	6,800,000	209	
57,800	75	10,700	31	20,500,000	265	7,200,000	209	
56,700	70	11,100	30	20,900,000	256	7,400,000	199	
59,000	68	11,900	28	21,000,000	243	8,100,000	201	
55,900	63	11,400	27	22,200,000	227	7,900,000	189	
48,000	55	9,800	24	17,500,000	205	7,300,000	177	
46,500	52	9,600	22	19,100,000	212	8,400,000	195	
48,100	51	10,900	24	19,600,000	206	8,800,000	191	
51,900	53	11,800	25	20,600,000	209	9,300,000	193	
51,500	50	15,500	30	21,700,000	209	9,800,000	192	
52,700	52	12,500	25	20,600,000	202	9,100,000	180	
56,100	56	12,200	24	21,100,000	200	9,700,000	192	

ce: Accidents and Drivers—National Safety Council estimates based on reports from state motor-vehicle
departments and Federal Highway Administration. Mileage—National Safety Council estimates based on survey
3 from National Family Opinions, Inc.
number of drivers in fatal accidents per 1,000,000 miles driven
number of drivers in all accidents per 10,000,000 miles driven

enter streets. Thirty per cent of all actions occur between intersections, but the proportion varies for persons of different ages. These and other actions are shown in the table below.

Deaths and Injuries of Pedestrians by Age and Action†, 1979

Actions	All Ages		Age of Persons Killed and Injured								65 and Over
	No.	%	Under 5	5-9	10-14	15-19	20-24	25-44	45-64		
Total Pedestrians	129,600	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	
Crossing or entering	71,300	55.0	62.3	68.0	61.3	43.5	46.3	43.6	56.5	68.3	
—at intersection	31,800	24.5	9.8	19.6	25.4	19.9	23.4	22.9	33.0	43.5	
—between intersection	39,500	30.5	52.5	48.4	35.9	23.6	22.9	20.7	23.5	24.8	
Walking in roadway	9,700	7.5	3.1	3.1	8.1	12.9	10.2	8.1	7.2	7.1	
—with traffic	6,900	5.3	1.7	2.0	5.8	9.9	7.7	5.6	4.9	4.7	
—against traffic	2,800	2.2	1.4	1.1	2.3	3.0	2.5	2.5	2.3	2.4	
Standing in roadway	3,000	2.3	0.8	0.6	1.2	3.7	3.6	3.2	2.6	1.7	
Pushing or working on vehicle in roadway	1,400	1.1	0.1	0.1	0.3	1.6	2.2	2.0	1.3	0.6	
Other working in roadway	1,700	1.3	1.6	1.0	0.8	0.9	1.7	2.0	1.7	0.3	
Playing in roadway	2,700	2.1	6.3	5.1	4.6	1.2	0.5	0.1	0.1	0.2	
Other in roadway	27,200	21.0	21.5	19.8	18.0	22.1	21.5	26.7	19.2	13.8	
Not in roadway	12,600	9.7	4.3	2.3	5.7	14.1	14.0	14.3	11.4	6.0	

Source: Based on 1979 reports of deaths and injuries from 16 state traffic authorities; number of deaths and injuries are 1980 estimates

†Totals not comparable to previous years due to classification changes

Pedestrian accidents by hour of day and day of week

Pedestrian accidents vary importantly by hour of day and day of week according to 1980 data from the New York Department of Motor Vehicles. These accidents are most likely to occur during the early afternoon and early evening hours; almost half of a pedestrian accidents occur between 1:00 p.m. and 7:00 p.m. Thursday, Friday and Saturday account for almost half of the pedestrian accidents with Friday having the large proportion. The thirty-hour period from 1:00 p.m. Thursday to 7:00 p.m. Friday account for almost 24 per cent of the pedestrian accidents.

The table below shows the percentage distribution of pedestrian accidents by day of week and hour of day.

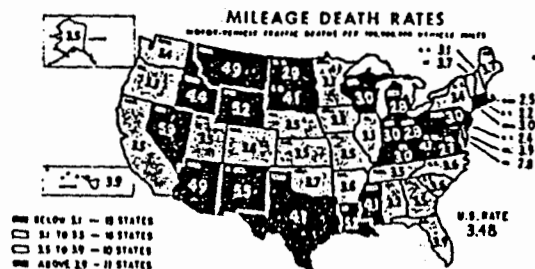
Pedestrian Accidents by Hour of Day and Day of Week, New York, 1980

Hour of Day	Total	Day of Week						
		Mon.	Tues.	Wed.	Thurs.	Fri.	Sat.	Sun.
Total	100.0%	14.1%	14.7%	13.8%	14.9%	17.6%	14.9%	10.0%
1:00 a.m.-4:00 a.m.	4.3%	0.2	0.3	0.3	0.4	0.5	1.5	0.1
4:00 a.m.-7:00 a.m.	2.1%	0.2	0.2	0.2	0.2	0.3	0.5	0.1
7:00 a.m.-10:00 a.m.	9.7%	1.6	1.8	1.8	1.7	1.8	0.6	0.1
10:00 a.m.-1:00 p.m.	12.9%	2.1	2.0	1.7	1.9	2.2	1.9	0.1
1:00 p.m.-4:00 p.m.	21.5%	3.0	3.3	3.4	3.6	3.5	2.6	0.1
4:00 p.m.-7:00 p.m.	25.2%	3.9	4.1	3.5	3.9	3.5	3.2	0.1
7:00 p.m.-10:00 p.m.	15.9%	2.2	2.1	2.0	2.2	3.1	2.7	0.1
10:00 p.m.-1:00 a.m.	8.4%	1.0	0.9	0.9	1.0	1.7	1.7	0.1

Source: New York Department of Motor Vehicles

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Motor-vehicle death rates by state, 1980



Source: Bureau of Motor Vehicle Safety, National Highway Traffic Safety Administration, Washington, D.C. 20590

Motor-Vehicle Deaths by State, 1976-1980

(Population Death Rates for 1980 by place of accident are shown on page 62)

State	Motor-Vehicle Traffic Deaths (Place of Accident)				Total Motor-Vehicle Deaths (Place of Residence)				Pop. Rate 1978
	Number		Mileage Rate		Number		Mileage Rate		
	1980	1979	1980	1979	1978	1977	1976	1975	
Total U.S.	52,600	52,800	3.8	3.8	52,411	48,510	47,838	44.8	24.8
Alabama	947	1,020	3.2	3.4	1,285	1,244	1,127	1,074	34.5
Alaska	87	80	3.5	3.6	119	123	120	120	29.0
Arizona	947	1,020	4.9	5.3	953	894	708	602	40.2
Arkansas	587	548	3.6	3.4	616	548	558	554	28.4
California	5,489	5,503	3.5	3.4	5,754	5,275	4,766	4,568	25.8
Colorado	708	691	3.6	3.5	705	707	621	561	26.1
Connecticut	582	576	3.0	3.0	498	465	443	413	16.0
Delaware	158	121	3.9	3.0	135	115	128	121	23.1
Dist. of Col.	46	50	1.4	1.5	72	87	84	109	10.9
Florida	2,879	2,837	3.9	3.5	2,198	2,007	1,927	1,871	25.4
Georgia	1,503	1,523	3.5	3.5	1,533	1,455	1,299	1,202	30.2
Hawaii	185	205	3.9	4.3	200	143	143	143	22.2
Idaho	329	333	4.4	4.4	315	314	266	257	25.7
Illinois	1,994	2,048	3.1	3.2	2,299	2,223	2,189	2,055	20.5
Indiana	1,177	1,309	3.0	3.3	1,314	1,303	1,263	1,244	24.4
Iowa	626	654	3.3	3.4	696	659	608	570	24.0
Kansas	595	520	3.5	3.0	593	586	570	553	25.3
Kentucky	825	905	3.0	3.3	680	644	606	586	25.2
Louisiana	1,212	1,187	5.2	5.1	1,127	1,069	868	783	28.3
Maine	260	241	3.7	3.4	228	191	220	209	20.9
Maryland	782	700	2.8	2.5	733	682	704	717	17.7
Massachusetts	881	920	2.5	2.6	953	819	642	615	16.5
Michigan	1,772	1,847	2.8	2.8	2,153	1,999	1,962	1,867	23.4
Minnesota	663	681	3.1	3.2	683	695	676	676	24.4
Mississippi	697	718	4.1	4.2	868	781	690	640	36.0
Missouri	1,181	1,182	3.5	3.4	1,220	1,188	1,243	1,252	25.2
Montana	325	332	4.9	5.0	270	298	292	246	24.6
Nebraska	396	330	3.5	2.9	375	372	392	373	23.9
Nevada	348	365	8.9	8.2	289	219	185	185	43.4
New Hampshire	184	184	3.1	2.9	181	151	153	185	18.5
New Jersey	1,181	1,141	2.4	2.3	1,181	1,085	1,052	1,011	18.1
New Mexico	615	650	5.5	5.7	604	563	536	497	49.7
New York	2,819	2,377	3.4	3.1	2,828	2,471	2,310	2,148	14.8
North Carolina	1,516	1,522	2.8	2.8	1,498	1,440	1,568	1,568	26.9
North Dakota	151	127	2.9	2.4	193	181	203	203	29.6
Ohio	2,033	2,281	2.8	3.1	2,107	1,861	1,917	1,916	19.6
Oklahoma	972	869	3.7	3.2	970	899	871	841	34.1
Oregon	648	675	3.3	3.5	737	680	636	601	30.1
Pennsylvania	2,114	2,204	3.0	3.1	2,200	2,147	2,071	1,977	18.7
Rhode Island	128	125	2.2	2.1	127	159	144	136	13.6
South Carolina	859	900	3.6	3.7	911	954	809	714	31.4
South Dakota	228	211	4.1	3.8	196	214	238	284	28.4
Tennessee	1,171	1,236	3.5	3.6	1,289	1,232	1,164	1,164	29.7
Texas	4,424	4,429	4.1	3.9	3,942	3,618	3,201	3,022	20.2
Utah	335	330	3.5	3.4	385	333	286	292	29.2
Vermont	134	163	3.7	4.4	113	101	92	72	22.2
Virginia	1,045	1,014	2.7	2.6	1,086	1,181	1,041	1,041	21.0
Washington	905	1,032	3.4	3.5	1,052	988	818	818	27.7
West Virginia	539	532	4.7	4.6	490	503	492	463	26.3
Wisconsin	905	997	3.0	3.0	990	948	945	911	21.1
Wyoming	244	244	5.2	5.1	187	201	196	196	44.0

Source: Motor-Vehicle Traffic Deaths from state traffic authorities; Total Motor-Vehicle Deaths from National Center for Health Statistics

*Includes both traffic and non-traffic motor-vehicle deaths. See definitions of traffic and non-traffic accidents on inside of back cover.

†The mileage death rate is deaths per 100,000,000 vehicle miles; the population death rate is deaths per 100,000 population. 1980 mileage death rates are National Safety Council estimates.

‡Latest year available. See page 22 for comparability.

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Exhibit CC
1/28/83

Age of driver



There were about 146,000,000 drivers in the nation in 1980. The approximate number in each age group is shown in the table below, along with each group's accident experience for the year. The figures in the last two columns at the right indicate the frequency of accident involvement; the higher the number, the higher the involvement in each age group.

Age of Drivers—Total Number and Number in Accidents, 1980

Age Group	All Drivers		Total		All Drivers		Per No. of Drivers	
	Number	%	Number	%	Number	%	Fatal*	All**
Total	146,000,000	100.0%	44,300,000	100.0%	28,800,000	100.0%	47	20
Under 20	14,300,000	9.8	10,800	0.02	3,000,000	10.4	74	35
20-24	14,400,000	9.9	14,700	0.03	3,800,000	13.2	19	14
25-29	17,500,000	12.0	9,100	0.02	4,400,000	15.3	33	25
30-34	18,800,000	12.9	8,300	0.02	3,300,000	11.4	17	11
35-39	19,000,000	13.0	4,800	0.01	2,000,000	7.0	12	8
40-44	18,700,000	12.8	4,100	0.01	1,800,000	6.3	10	6
45-49	18,400,000	12.6	3,800	0.01	1,800,000	6.3	10	6
50-54	17,700,000	12.1	2,900	0.01	1,300,000	4.5	11	7
55-59	16,100,000	11.0	2,600	0.01	1,200,000	4.4	12	8
60-64	15,200,000	10.4	2,200	0.01	900,000	3.1	12	8
65-69	14,100,000	9.6	1,700	0.01	1,000,000	7.0	14	9
70-74	14,000,000	9.6	1,200	0.01	300,000	1.0	27	17
75 and over	7,900,000	5.4	1,400	0.01	500,000	1.7	48	17

Source: Drivers in accidents based on reports from 16 state traffic authorities. Number of drivers by age are National Safety Council estimates based on reports from state traffic authorities and research groups.

*Deaths in Fatal Accidents per 100,000 drivers in each age group.

**Deaths in All Accidents per 100 drivers in each age group.

Sex of driver



Of the estimated 146,000,000 drivers in 1980, about 77,700,000 are males and 68,300,000 are females. Males are involved in more accidents than are females, as shown in the table below. The difference is due at least partly to differences in the amount of driving done by the members of each sex, and to differences in time, place, and circumstance of the driving.

Sex of Driver Involved in Accidents, 1965-1980

Year	Drivers in Fatal Accidents				Drivers in All Accidents			
	Male		Female		Male		Female	
	No.	Ratio†	No.	Ratio†	No.	Ratio†	No.	Ratio†
1965	50,300	74	2,900	17	18,300,000	22	4,700,000	11
1966	54,600	81	3,700	22	18,640,000	22	4,700,000	11
1967	64,600	90	4,900	29	18,500,000	22	4,800,000	12
1968	59,500	84	10,500	35	19,800,000	23	4,000,000	11
1969	59,800	83	10,800	33	20,000,000	24	4,800,000	12
1970	57,800	79	10,700	21	20,500,000	26	7,200,000	20
1971	56,700	70	11,100	20	20,900,000	25	7,400,000	19
1972	59,000	80	11,900	21	21,000,000	24	8,100,000	20
1973	63,900	83	11,600	18	20,200,000	22	7,900,000	19
1974	48,000	53	8,800	24	17,800,000	20	7,300,000	17
1975	48,500	51	9,600	22	19,100,000	21	8,400,000	19
1976	48,100	51	10,900	26	19,600,000	20	8,800,000	19
1977	51,900	52	11,200	25	21,600,000	20	9,300,000	19
1978	51,500	50	13,500	26	21,700,000	20	9,900,000	19
1979	52,700	51	12,300	25	20,800,000	20	9,100,000	18
1980	54,100	54	12,200	24	20,100,000	20	9,700,000	19

Source: Accidents and Drivers—National Safety Council estimates based on reports from state motor-vehicle departments and Federal Highway Administration. Message—National Safety Council estimates based on survey data from National Farm Community, Inc.

†Number of drivers in fatal accidents per 1,000,000 miles driven.

**Number of drivers in all accidents per 100,000 miles driven.

Pedestrians

Over half of all pedestrian deaths and injuries happen when these persons cross or enter streets. Thirty per cent of all actions occur between intersections, but the proportion varies for persons of different ages. These and other actions are shown in the table below.

Deaths and Injuries of Pedestrians by Age and Action†, 1979

Actions	All Ages		Age of Persons Killed and Injured									
	No.	%	Under 5	5-9	10-14	15-19	20-24	25-44	45-64	65 and Over		
Total Pedestrians	128,800	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%		
Crossing or entering	71,500	55.0	82.3	88.0	81.3	43.5	46.3	43.6	56.5	68.3		
—at intersection	21,800	24.7	9.9	19.6	25.4	19.9	22.4	22.9	33.0	43.3		
—between intersections	38,500	30.3	52.3	48.4	35.9	23.6	22.9	20.7	23.3	24.8		
Walking in roadway	8,700	7.5	3.1	3.1	8.1	12.9	10.2	8.1	7.2	7.1		
—on path	6,900	5.7	1.7	2.0	3.6	9.9	7.7	5.6	4.9	4.7		
—against traffic	2,800	2.7	1.4	1.1	2.3	3.0	2.5	2.5	2.3	2.4		
Standing in roadway	3,000	2.3	0.8	0.8	1.2	3.7	3.6	3.2	2.6	1.7		
Pushing or working on vehicle in roadway	1,400	1.1	0.1	0.1	0.3	1.6	2.2	2.0	1.3	0.6		
Other working in roadway	1,700	1.3	1.6	1.0	0.8	0.9	1.7	2.0	1.7	0.3		
Playing in roadway	2,700	2.1	6.3	3.7	4.6	1.2	0.5	0.1	0.1	0.2		
Other in roadway	27,200	21.0	21.5	19.8	18.0	22.1	21.5	26.7	19.2	13.1		
Not in roadway	12,600	9.7	4.3	2.3	3.7	14.1	14.0	14.3	11.4	4.0		

Source: Based on 1979 reports of deaths and injuries from 16 state traffic authorities, number of deaths and injuries are 1980 estimates.
†Table not comparable to previous years due to classification changes.

Pedestrian accidents by hour of day and day of week

Pedestrian accidents vary importantly by hour of day and day of week according to 1980 data from the New York Department of Motor Vehicles. These accidents are most likely to occur during the early afternoon and early evening hours; almost half of all pedestrian accidents occur between 1:00 p.m. and 7:00 p.m. Thursday, Friday and Saturday account for almost half of the pedestrian accidents with Friday having the largest proportion. The thirty-hour period from 1:00 p.m. Thursday to 7:00 p.m. Friday accounts for almost 24 per cent of the pedestrian accidents.

The table below shows the percentage distribution of pedestrian accidents by day of week and hour of day.

Pedestrian Accidents by Hour of Day and Day of Week, New York, 1980

Hour of Day	Total	Day of Week						
		Mon.	Tues.	Wed.	Thurs.	Fri.	Sat.	Sun.
Total	100.0%	14.1%	14.7%	13.8%	14.8%	17.4%	14.8%	10.0%
1:00 a.m.-4:00 a.m.	4.3%	0.2	0.3	0.3	0.4	0.5	1.5	1.1
4:00 a.m.-7:00 a.m.	2.1%	0.2	0.2	0.2	0.2	0.3	0.5	0.5
7:00 a.m.-10:00 a.m.	3.7%	1.6	1.8	1.8	1.7	1.8	0.6	0.4
10:00 a.m.-1:00 p.m.	12.9%	2.1	2.0	1.7	1.9	2.2	1.5	1.1
1:00 p.m.-4:00 p.m.	21.3%	3.0	3.3	3.4	3.6	3.5	2.8	1.9
4:00 p.m.-7:00 p.m.	23.2%	3.8	4.1	3.5	3.9	4.5	3.7	2.7
7:00 p.m.-10:00 p.m.	13.9%	2.2	2.1	2.0	2.2	3.1	2.7	1.6
10:00 p.m.-1:00 a.m.	8.4%	1.0	0.9	0.9	1.0	1.7	1.7	1.7

Source: New York Department of Motor Vehicles

HB 358

Exhibit EE

1/28/83

WITNESS STATEMENT

Name Terry Lynn Minow

Address Box 513, Boulder, MT

Representing MT. Fed of Teachers

Bill No. HB 358

House
Committee On Judiciary

Date 1-28-83

Support ☒

Oppose ☐

Amend ☐

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Discrimination on the basis of sex is unfair to women. Other more pertinent facts, such as smoking vs. non-smoking, drinking vs. non-drinking, are not included in the determination of insurance rates.
2. The Montana Federation of Teachers wishes to go on record as opposing this discrimination.
- 3.
- 4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

MINUTES OF THE JUDICIARY COMMITTEE
February 8, 1983

The meeting of the House Judiciary Committee was called to order by Chairman Dave Brown at 7:05 a.m. in room 224A of the capitol building, Helena, Montana. All members were present as was Brenda Desmond, Staff Attorney for the Legislative Council.

EXECUTIVE SESSION

HOUSE BILL 398

REPRESENTATIVE JENSEN moved that this bill be TABLED. The motion was seconded by REPRESENTATIVE ADDY.

This bill provides that a voluntary intoxication or drugged condition is not a defense to any criminal offense and it also clarifies the test for responsibility for conduct.

The motion carried unanimously.

HOUSE BILL 516

This bill provides for county attorney reports to the attorney general on cases involving declined prosecutions or the exclusionary rule; and to provide for an attorney general newsletter on the subject to be sent to county and city attorneys, sheriffs, and police chiefs.

REPRESENTATIVE ADDY moved that this bill DO PASS. REPRESENTATIVE JENSEN seconded the motion.

REPRESENTATIVE ADDY moved that the bill be amended in the title on line 6, by striking "or" and after "exclusionary rule" insert "search and seizure cases", and on line 15, page 1, after "declined" insert "due to the applicability of the exclusionary rule in search and seizure cases", and on page 1, line 17, after "evidence" insert "in search and seizure cases". REPRESENTATIVE JENSEN seconded the motion.

REPRESENTATIVE EUDAILY asked how much time are they going to have the county attorneys spend on this.

Judiciary Committee
February 8, 1983
Page Seventeen

HOUSE BILL 358

REPRESENTATIVE JAN BROWN moved that this bill DO PASS AS AMENDED. REPRESENTATIVE BERGENE seconded the motion.

REPRESENTATIVE JAN BROWN moved the adoption of the amendments. See EXHIBIT L. The motion was seconded by REPRESENTATIVE BERGENE. The motion carried unanimously.

REPRESENTATIVE RAMIREZ moved to amend the bill following line 17, insert a new section which says, "Unlawful discrimination for the purpose of this act includes, but is not limited to availability of insurance, but does not include differences in rates, premiums, or benefits based on gender as a generally recognized and actuarial risk classification." REPRESENTATIVE SEIFERT seconded the motion.

REPRESENTATIVE RAMIREZ explained the intent of his amendment.

REPRESENTATIVE FARRIS said that all of Montana is being discriminated against and there has been an insurance company that has been in existence for about 18 years that offers insurance on an equal basis regardless of sex; and they have done very well. She said she opposed this amendment.

REPRESENTATIVE EUDAILY asked if this insurance company operates in one state.

REPRESENTATIVE FARRIS replied that she understood it is national and she advised that there was also a government employees insurance, which, at one time, was not based on actuary genders but it has been changed.

REPRESENTATIVE EUDAILY indicated that he thought the Ramirez amendment will help the situation; he knows that they are not going to get companies to come in here and change their policies just for Montana; without this amendment, you are asking them to do this and they will pay for it through the nose.

Judiciary Committee
February 8, 1983
Page Eighteen

REPRESENTATIVE RAMIREZ indicated that it would impose an undue hardship on these insurance companies if they had an effective date of 1984; they did not get very many hard facts as to what the impact would be; it could cost women a lot of money; they do get breaks now, but on the other hand, they are paying more for pension and annuity types of policies because they live longer than men.

REPRESENTATIVE SPAETH asked about a proposed resolution that was to study insurance in general and he wondered if this would be included in that resolution.

REPRESENTATIVE FARRIS declared that they do not need a resolution - these things have been documented already.

REPRESENTATIVE RAMIREZ asked if the insurance company Representative Farris referred to does business in this state. REPRESENTATIVE FARRIS replied that it is not a very big company, but it has been in existence for almost twenty years. She said that there were about twelve people who spoke in favor of this; look at how many people they represent; they were speaking for their groups and some were national groups; and she contended that the discrimination in insurance is well documented and has a long history - the study does not need to be done - all the information is there.

REPRESENTATIVE BERGENE commented that she thought it would have been looked into a long time ago on a national level if there was an equal rights amendment.

REPRESENTATIVE CURTISS said that she believed that there is a task force working on the national level and this is one of the areas they are looking at.

REPRESENTATIVE ADDY declared that cost is a reason to not change now; and he asked how many times has the argument been used by people that they should pass this law as justice is justice and damn the cost.

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REPRESENTATIVE DARKO commented that things will cost them more because they are condoning discrimination.

REPRESENTATIVE JENSEN indicated that he opposed the amendment, but he wanted to address the question of a study; he feels that most resolutions are senseless; they take time and don't mean much and study resolutions don't mean anything; and he thought the amendment would cripple this bill.

REPRESENTATIVE KEYSER stated that he would have to support that amendment; they have had 100 some years of risk classification; they do have differences in groups, differences in sex, differences in age, etc., and the development of actuaries in this is quite a process.

REPRESENTATIVE SPAETH said that he was undecided; he has been in touch with his insurance company and the individual he talked to indicated that they would probably not write very many more policies in the state of Montana because Montana was not a very big market for them; and he did not think it was worth rewriting these in Montana as opposed to writing in other states. He commented that he kind of liked Representative Ramirez's amendment.

REPRESENTATIVE CURTISS asked if this would cost women more based on the information they have.

REPRESENTATIVE FARRIS replied that she believes that it will, for sure, cost women more; even if that wasn't necessary in terms of doing business on gender-based rates, the insurance companies would be very angry and find some way to do it as a punishment.

A vote was taken on the amendment and the amendment failed with 12 voting no and 7 voting yes. See ROLL CALL VOTE.

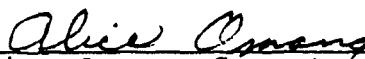
REPRESENTATIVE JAN BROWN moved that the bill DO PASS AS AMENDED. REPRESENTATIVE BERGENE seconded the motion. The motion passed with 15 voting yes and 4 voting no. See ROLL CALL VOTE.

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There being no further business, REPRESENTATIVE KEYSER moved that they adjourn. The time was 11:27 a.m.



DAVE BROWN, Chairman



Alice Omang, Secretary

Exhibit 4.
HB358
2/8/83

Amend358/BCDII

Proposed amendments to HB 358

1. Title, line 7,
Following: "PLANS"
Insert: ";AND PROVIDING AN EFFECTIVE DATE"
2. Page 1, following line 21
Insert: Section 3. Effective date. This act is effective July
1, 1984.

February 8, 1983

MR. **SPEAKER:**We, your committee on **JUDICIARY**having had under consideration **HOUSE** Bill No. **358****First** READING COPY (white)
Color

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROHIBIT DISCRIMINATION ON THE BASIS OF SEX OR MARITAL STATUS IN THE ISSUANCE OR OPERATION OF INSURANCE POLICIES AND RETIREMENT PLANS."

Respectfully report as follows: That **HOUSE** Bill No. **358****BE AMENDED AS FOLLOWS:**

1. Title, line 7.

Following: "PLANS"

Insert: "; AND PROVIDING AN EFFECTIVE DATE"

2. Page 1, following line 21.

Insert: "Section 3. Effective date. This act is effective July 1, 1984."

AND AS AMENDED**DO PASS**

MINUTES OF THE MEETING
BUSINESS AND INDUSTRY COMMITTEE
MONTANA STATE SENATE

March 19, 1983

The meeting of the Business and Industry Committee was called to order by Chairman Allen Kolstad on March 19, 1983, at 10:08 a.m., in Room 405, State Capitol.

ROLL CALL: All members of the committee were present.

CONSIDERATION OF HOUSE BILL 358: An act to prohibit discrimination on the basis of sex or marital status in the issuance or operation of insurance policies and retirement plans and providing an effective date.

Representative Jan Brown stated the basis for eliminating discrimination based on sex is in the law. Article 1, section 4, discrimination is eliminated; however, sex discrimination in the insurance industry is common practice.

PROPOSERS TO HOUSE BILL 358: Celinda Lake, Women's Lobbyist Fund, stated she supports this bill. Her written testimony is attached to the minutes. (Exhibit No. 1) She also gave the committee information entitled "An Equal Piece of the Rock for Women?" (Exhibit No. 2)

Vivian Marie stated she supports this bill. Her comments are attached to the minutes. (Exhibit No. 3)

Kathy Karp, Montana League of Women Voters, stated they support this bill.

Nikki LaFromboise, Department of Labor ICCW, stated they support House Bill 358. It will benefit both men and women alike. She feels sex based actuarial tables are discriminatory and unnecessary. Unisex tables have been in effect since 1964. If a unisex table was more in effect a 32-year old women would pay as a 35-year old man. There are enough alternative factors other than sex to base insurance premiums and benefits on. She supports this bill.

Ruth Long, AAUW, stated they support this legislation to eliminate discrimination in insurance. The Fair Insurance Practices Act represents another step toward economic and social justices. She stands behind this bill.

Dee Adams, Montana NOW, stated they support this bill. Her written testimony is attached to the minutes. (Exhibit No. 4)

Julie Fasbender, AUSM, stated they wish to go on record in support of House Bill 358.

David Sexton, MEA, stated they cannot understand why there should be sex discrimination in insurance policies. The MEA was an early supporter of the ERA. He thinks House Bill 358 is an excellent opportunity to show that this legislature is for equal rights with or without ERA.

Joel Hardy stated he wanted to go on record in support of this bill.

Wes Krawczyk, ACLU of Montana, stated they support this bill. They have been active in several law suits relating to discrimination and insurance law. They are concerned that the Legislature take the opportunity to rectify this. The question is not one of actuarial tables it is 1) whether or not the classification on the basis of sex is a good and proper policy and 2) if it is constitutional. Statistics show whites live longer than nonwhites. Religion is another classification. It is our opinion that the present practice is unconstitutional. As a civil rights matter, sex in insurance policies must be eliminated. The only way to end this practice is to uniformly prohibit it as in House Bill 358.

Linda King, Lewis and Clark Democratic Action Club, stated at the last meeting they passed a resolution in support of this bill. She urged passage of this bill.

Karen Zollman, House Aide, read the testimony of Lynn Robson who was unable to attend the meeting. Her testimony is attached to the minutes. (Exhibit No. 5)

Margaret Anne Meehan Bellen stated she has been employed in sales and service for four years. The following are much better underwriting factors: disability, medical history, family history, habits with the use of alcohol and drugs, motor vehicle record, finances and aviation activities. These are much more "weighty" rather than sex. In life insurance there is a direct relationship between the age and the amount of coverage applied for. The ice has already been broken in the terms of unisex rates. Some are still making sex distinctions. For groups of less than nine they are using unisex rates. The administration of using rates of combined tables is not nearly the threat it is made out to be; therefore, unisex rates are now being used. The life and health industry does not operate in a vacuum. They are subject to the making of proper policies in the general interest as any other interest is subject to proper policies in this county. It should not be suggested that actuarial tables are so specified that they are inappropriate. Race and religion are far more "weighty" and they have been outlawed. Insurance benefits are paid not only from premium income but also on the return of investments. Premiums change rapidly and routinely for early renewable term. They are doing this in response to changes in mortality and competition in the marketplace. The same thing will happen when sex is removed from the market system. She urged support of House bill 358.

OPPONENTS TO HOUSE BILL 358: Bill Romine stated this bill will raise the premiums for all parents who have daughters who drive. If in fact girls have fewer accidents, their premiums should be lower. We should not have the young female drivers subsidizing the male drivers.

Rita Theisen, Health Insurance Association of America, stated she opposed this bill. Her written testimony is attached to the minutes. (Exhibit No. 6)

Judy Mintel, State Farm Mutual Insurance Company, Bloomington, IL, stated they oppose this bill. Her written testimony is attached to the minutes. (Exhibit No. 7)

Linda McCluskey stated she was opposed to House Bill 358. Her comments are attached to the minutes. (Exhibit No. 8)

Lester H. Loble, II, American Council of Life Insurance stated they are opposed to this bill. His written testimony is attached to the minutes. (Exhibit No. 9)

Connie Dinger stated she works in the insurance industry. By now you are aware that male drivers pay higher than women their age. Her point is the factors and figures do speak for themselves. There is a difference. She is a sole driver of her car and she does receive a discount. In the future she will be adding her 15-year old daughter and she resents the possibility of subsidizing the higher risk driver as it would be in this bill. She urged the committee to not only deal with discrimination but keep in your mind what is right, just and fair.

Elmer Hausken, MALU, stated he opposed this bill. His written testimony is attached to the minutes. (Exhibit No. 10)

Those who also opposed this bill but were unable to testify are as follows: Glen Drake, his written testimony is attached to the minutes. (Exhibit No. 11)

Kenneth Hassler, MALU, his written testimony is attached to the minutes. (Exhibit No. 12)

Roger McGlenn, Independent Insurance Agents Association of Montana, his written testimony is attached to the minutes. (Exhibit No. 13)

Daniel Case, American Council of Life Insurance, his written testimony is attached to the minutes. (Exhibit No. 14)

Bob James, Pat Melby and Ed Zimmerman.

There were no further proponents nor opponents.

QUESTIONS FROM THE COMMITTEE: Senator Christiaens asked what percentage of the total paid in premium would you attribute directly to sex? Mr. Case stated the difference in premium rates runs 10% or more for a whole life, 20-30% for term life.

Senator Kolstad asked how does the retroactiveness of this apply? Mr. Zimmerman stated this question has arisen before the U.S. Congress. If this bill were passed, lets assume that Miss Theissen and I are the same age and we bought insurance. Prior to the effective date her premium would be lower. Committments would have to be altered unilaterally.

Senator Dover asked wouldn't this be a good bill for insurance agents? Mr. Zimmerman stated possibly so.

Senator Regan asked you made great point of the fact that discrimination is marked by differences and judgments and you classify accordingly. Do you do this for the Indian population? Ms. Theisen stated she is speaking only from the health insurance prospective. The only questions are evidence of prior health history. We do not have a health insurance category that says native american.

Senator Regan asked in your studies have you found there is a difference in the actuarial tables? Mr. Case stated he is not aware of any significant differences.

Senator Regan stated prior to (she couldn't remember the year) it is my understanding that there were significant policies based on race. Was there a prepared category for blacks? Mr. Case stated yes. Senator Regan asked do you still continue that? Mr. Case stated no. Senator Regan asked why do you no longer use race as a criteria? Mr. Case stated there is no need and the laws in the state prohibit because of discrimination.

Senator Fuller asked what effect did it have on premium rates when you no longer used race? Mr. Case stated the effect was minimal. The overall mortality differences are smaller. Senator Fuller asked what was the effect on the insurance rates on the blacks? Mr. Case stated they came down.

Senator Christiaens asked are you fearful of the increase of your daughters? Do you appreciate that the premiums for your son will come down? Mr. Romine stated he recognizes this but why should the girls subsidize the boy drivers?

Senator Regan asked what happened with all these contracts and policies that no longer differentiate between blacks and caucasians? How did that transition take effect? Would you see any problem in this bill if we simply said renewal of or issuance of? Mr. Case stated the state laws that prohibit distinction were not retroactive and maybe policies that continue to carry the premium rate to differentiate their rates are. He stated they would oppose a bill that takes away the right and privilege of using the classifier of sex.

Senator Regan asked did you register that same complaint when they took away race? Mr. Case stated the question of race they did protest at that time. The state laws that did prohibit the classification was more like 1940-1950. By then there was no need to make that distinction.

Senator Regan stated as women have become more liberated and have come into the marketplace and found jobs with tension and harassment you find less differences, they are subject to heart attacks and ulcers. Ms. Mintel stated they have conducted studies every year. The mortality ratio has hung over 60% for several years. That is what counts for us is the experience it may come down and if and when it does you can count on us to reflect that.

Senator Goodover stated a few years back there was discrimination charged in education then there was a court case with reverse dis-

crimination. Do you have any elaboration regarding reverse discrimination in this matter? Mr. Zimmerman stated there has been one but it is still in court. Ms. Mintel stated there are a couple of cases that have been decided by the Montana Supreme Court they have nothing to do with insurance. The Montana Court has upheld sex classifications.

Senator Christiaens stated from an investigative point of view you use various things such as mileage driven, occupation of the driver and others when you make an application. You are asked what your previous carrier was. In your testimony you mentioned and showed us a chart that Montana falls under 25% MVRs. Do you not agree that you have the opportunity with the investigative process to order that inspection and you have the opportunity to contact the previous carrier? Ms. Mintel stated I am not sure that State Farm discloses the past driving records and whether or not State Farm requests this. I don't believe so.

Senator Christiaens asked could you answer that? Mrs. Seiffert stated under the present privacy standards you need to have permission from the applicant.

Senator Gage stated my understanding of discrimination is where everybody had the same driving record and then an insurance company said I am not turned on by women I am going to rate them higher than men. Mrs. Brown stated the bill really states that it is unlawful to classify by sex and marital status.

Senator Gage stated then you would not object to the fact that women are paying lesser rates? Mrs. Brown stated if it is not based solely on sex.

Senator Gage asked just because you are a women does that include because you are a women you are having higher medical claims? Mrs. Brown stated not solely because I am a women.

Senator Christiaens asked if inspections are not being done why are we addressing it in this bill? Mrs. Seiffert stated it would then be unlawful to use a report without the authorization to the insurer.

Senator Christiaens asked how are they getting the permission? Mrs. Seiffert stated you can give your permission and then it becomes an underwriting discretion.

In closing, Representative Brown stated the issue here is one of sex discrimination and it is a complex area. They did amend it in the House with an effective date of October 1985 to update tables and what has to be done. Social customs have changed and the role of women have changed. As times change and the role of women changes it is time that we look at updating the actuarial tables. She urged favorable consideration of this bill.

The hearing was closed on House Bill 358.

ADJOURN: There being no further business, the meeting was adjourned at 12:00 p.m.

D. " "

WOMEN'S LOBBYIST FUND

Box 1099
Helena, MT 59624
449-7917

FACTSHEET ON HB 358 TO ELIMINATE DISCRIMINATION ON THE BASIS STATUS IN INSURANCE AND PENSION PLANS

1. WHY IS THIS ISSUE IMPORTANT TO WOMEN IN MONTANA?

For women this is a basic issue of paying more for most things than men. For example, on the average 59 cents for every dollar men make. Also, the most blatant and pervasive form of sex discrimination still exists in Montana.

An example of the economic burden and the discriminatory nature of insurance is "Imagine that you're a woman with a twin brother....same age, same neighborhood, same occupation, same insurance coverage. Yet for YOU pay \$6,662 more. For disability coverage (age 25-55) YOU pay \$5,856 more. The difference for a 20-year-payment life/pension policy, YOU pay \$17,372." This example is far from being the most extreme. Many more examples are written in Montana. (NOW Legal Defense and Education Fund)

2. SEX-BASED INSURANCE RATES AND BENEFITS ARE ILLEGAL IN MONTANA

Grouping risk is the essence of insurance and that is not what is at issue is what groups we are going to consider acceptable. Actuarial differences in mortality and morbidity between races are as great or greater for some age groups than the actuarial differences between women and men. It is illegal and socially unacceptable to base insurance rates on race and religion have been ruled suspect and invidious classifications. "Immutable characteristics determined solely by accident of birth" has been ruled to be the same kind of suspect classification. (F)

In every other area -- employment, housing, education, voting, credit, government regulation, public accommodation, etc.-- we refuse to classify people by sex.

If the Equal Rights Amendment had passed, it would have been tables for insurance. In Montana we have particularly strong language in the Dignity section of our constitution which states that no person shall be denied the protection of the laws. Under our state constitution no corporation can discriminate against another individual on the basis of sex. See in Montana right now based on our state Constitution.

There is also starting to be a large collection of court cases showing that discrimination in insurance is illegal. In *Los Angeles v. Manhart* (plan), the Supreme Court ruled that "... the parties accepted as women, as a class, do live longer than men... (however) even a statistical class is insufficient reason for (treating differently) an individual. A generalization does not apply...because there is no assurance that (or men)...will actually fit the generalization...Many women do outlive the average man and many men outlive the average woman." Three decisions come to the same conclusion including *Norris v. State of Arizona* -- a pension plan and which was decided in the 9th Circuit Court of Appeals. A case is before the Supreme Court now and the Reagan administration pension plans are illegal.

There have been state court cases ruling that health, disability, and insurance rates based on sex were illegal. In Pennsylvania a case was decided a few weeks ago based on their state ERA that sex-based auto insurance is currently a class-action suit in Nebraska against sex-based insurance. In process, however, is a very expensive, time consuming, and idiotic lawsuit. That is why we are proposing HB 358.

3) THE AVERAGE WOMAN FALLACY

Grouping by sex is an administratively easy method of categorizing risk, but much more accurate categories for insurance purposes would include physical condition, family health, leisure time, exercise habits, occupation, personality characteristics, life style, smoking, drinking, driving record, etc. TIAA-CREF, an annuity plan changing to gender neutral tables found that such tables were "actuarially sound". State Mutual Life Assurance Co. in an exhibit for Congressional hearings on this topic found that the difference in life expectancy tables for smokers and nonsmokers for most age groups was greater than the difference by sex. Many companies are already using some of these factors to classify risk, which should ease the adjustment if sex-based tables were no longer allowed. In fact "until the 1950's sex rating was generally not used by the insurance industry" (Congressional Record March 25, 1980) which counters the argument that sex-based tables are valid because they have been used for 100's of years.

Furthermore gender is fast losing whatever limited validity it had as a base for categorizing risk because of changing lifestyles. For example 86% of women do not outlive their male counterparts, and women are therefore being penalized in many forms of insurance for the 14% who do. (US Senate Committee on Commerce, Science, and Transportation report Nov. 30, 1982, Fair Insurance Practices Act.) The California Department of employment has shown that sex has almost nothing to do with the duration of disability or the average days lost due to a disability and in fact age and income are far better predictors of time lost than gender. The results are similar for other areas of insurance. In any year 90% of both men and women under 29 will not have any car accidents. A report put out by the New Jersey Insurance Commission and the New Jersey Sex Discrimination Commission concluded, "Sex in contrast to industry claims has very little explanatory power and does not create homogeneous groups. Sex is not an accurate predictor of accident risk. Sex is able to explain less than 5% of the total variation in risk and yet is responsible for rate differentials of many times greater magnitude. This results in large overcharge to many of the state's drivers...It can be concluded that the use of sex as a factor violates the principle of actuarial fairness and should not be used. Gender based grouping does not reflect essential differences and results in large subsidies..."

There are also tremendous inconsistencies in the use of actuarial tables. For death benefit insurance plans male life expectancy tables are set back a fixed number of years to calculate female rates while for annuity plans female tables are actually calculated. For auto insurance the breaks that women get for most policies end at age 25 or 29, while their driving records "appear" to involve fewer accidents throughout their lives.

THE BOTTOM LINE IS THAT INSURANCE RATES SHOULD BE BASED ON RISK, BUT CATEGORIZING RISK BY SEX IS DISCRIMINATORY AND INACCURATE.

4) WILL THE CHANGE RAISE THE COST OF INSURANCE?

Cost should not override the considerations of equality. Furthermore the US Senate Committee on Commerce, Science, and Transportation's report on the "Fair Insurance Practices Act" (Nov. 30, 1982) states "the industry cost data... substantially overstates the likely cost of providing equal benefits." In the case currently before the Supreme Court a brief of eight individual actuaries filed as amici curiae states: "We recognize, of course, that affirmance (of other court decisions which ruled illegal sex-based rates and benefits) would require changes in the operation of certain plans. We do not believe, however, that prohibition of the use of sex-distinct bases for calculating annuity benefits would materially affect the pricing of annuities or disrupt the insurance industry...In the past, the insurance industry has demonstrated its flexibility and adaptability as approaches to risk classification have changed. There is reason to expect that it will continue to do so."

The total cost of insurance ought to remain the same because the total losses would remain the same. Ending sex-based rating would simply redistribute those costs. Presently, there are inequities in both men and women's rates, adjustment should balance these. It would be very short-sighted for the industry to "adjust" rates by increasing them across the board. The competitive market place would insure that companies would start identifying other risk categories to lower rates and obtain more of the market. When Michigan went to uni-sex auto insurance, some companies raised their rates for women, some lowered them for men, and some split the difference, for example.

It is argued that unless sex-based tables are used for insurance, cost will go up because good risks will subsidize poor risks. To the extent that any grouping is less than perfect (and sex is certainly far from perfect, as well as a discriminatory way to categorize people) the better risks will always subsidize the poorer risks. Not allowing sex-based tables actually may force the industry to rate people on more accurate categories and help rates.

WOMEN'S LOBBYIST FUND

Box 1099
Helena, MT 59624
406/261-7917



An Equal "Piece of the Rock" for Women?

WOMEN'S LOBBYIST FUND FACT SHEET ON INSURANCE - HB 358

Women and men are discriminated against in rates and benefits from insurance and pension plans in Montana because such plans are based on gender. HB 358 would make it illegal to discriminate in the issuance of and rates and benefits for insurance and pension coverage.

Insurance: by Patrick and Twiss Butler

One Product

Two Prices

Annual Premiums

EACH PRODUCT HAS TWO PRICES—
FEMALE AND MALE. FOUR
EXAMPLES TO COVER A LIFETIME.

AUTOMOBILE INSURANCE

Liability and Physical Damage, rating factors from Insurance Services Office, Personal Auto Manual, 1980. Primary classifications: Youthful Operator, Good Student; Unmarried; Owner or Principal Operator, Drive to Work; or Business Use. \$200 base price assumed. Driver marries at age 25.

Age	Female	Male	Female - Male	Total Difference
17	\$320	\$550	-\$230	For 8 years
18	300	510	- 210	Ages 17-25
19	280	480	- 200	
20	260	460	- 200	
21-24	250	450	- 200	
25	250	250	0	-81,840

MEDICAL INSURANCE

Hospital-Surgical Policy, State Farm Mutual (Form 97032), Plan 2: \$100 daily room and board; \$2,000 Surgical. Includes pregnancy complications. Excludes pregnancy, childbirth.

Age	Female	Male	Female - Male	Total Difference
25	\$289	\$107	\$182	For 40 years
40	548	284	262	Ages 25-64
50	573	386	187	
64	599	561	38	\$6,862

DISABILITY INSURANCE

Disability Income Policy, Allstate Life (Form MU304), Class 2, \$700/month base benefit. Excludes pregnancy, childbirth, miscarriage, abortion. Includes complications and non-elective caesarean section.

Age	Female	Male	Female - Male	Total Difference
25	\$182	\$128	\$ 54	For 40 years
35	307	149	158	Ages 25-64
45	370	197	173	
55	410	305	105	\$4,864

LIFE INSURANCE AND PENSION

Minnesota Mutual Retirement income at 65 Policy (R165). Life Insurance before age 65: \$100,000. Monthly pension starting at age 65: 1,000. Pay premiums 20 years. Dividends eat by company deducted.

Age	Female	Male	Female - Male	Total Difference
25	\$4,471	\$4,124	\$347	For 20 years
45	3,473	3,179	294	Ages 35-54
54	2,401	2,185	216	\$4,856

For these 4 products the total price for females exceeds that for males by

\$15,732

* 1981 Time Saver for Health Insurance, National Underwriter Publication

** 1977 Minnesota Mutual Life Rate Book

1982, The National Organization for Women

Kathy A. van Hook
President

Sib Clack
Vice President

Connie Flaherty Erickson
Treasurer

Celinda C. Lake
Lobbyist

Stacy A. Flaherty
Lobbyist

Sex discrimination ruled

WASHINGTON (AP) — The Reagan Administration told the Supreme Court on Tuesday that most pension plans illegally discriminate against women by paying them lower benefits than men because they live longer.

Solicitor General Alex Lee told the court in a brief that Title VII of the 1964 Civil Rights Act prohibits the almost universal practice of basing different monthly pension benefits on actuarial tables showing the different life expectancies of men and women as groups.

The Justice Department's comments came in a case involving pension plans used by 3,400 colleges for some 650,000 employees, but the issues raised could affect millions of American workers and billions of dollars in pensions.

Lee noted that in 1978 the Supreme Court ruled against a retirement plan that required women to make larger contributions than similarly situated men.

"Whether a woman contributes a greater amount of her compensation than a man for an equal benefit or contributes an equal amount for a lesser benefit, the use of sex-based actuarial tables in calculating periodic benefits results in the same discrimination," Lee said.

Pension plan operators have argued that the life expectancy tables produce a fair system because men as a group get paid the same benefits as women as a group. This is because in the United States women tend to live longer than men and thus, although their monthly benefit is smaller, their total benefit is about the same when viewed on a group basis.

The American Academy of Actuaries says that the life expectancy of women born in 1961 is 78.3 years, while men born in the same year are expected to live an average 70.7 years.

But Lee said, "Title VII protects individuals, not groups; it is not satisfied simply by showing that the challenged policy is fair to the group as a whole."

The Reagan administration has used the same interpretation of Title VII in opposing racial hiring quotas in race discrimination cases, opting instead for remedies for individual victims.

The Justice Department's brief was filed in a case brought by Diana Spirt, a tenured professor at Long Island University in New York. She challenged her retirement plan because it pays women monthly benefits that are 11.3 percent less than those provided to men with equal service and equal contributions to the plan.

Long Island University's plan is managed by the Teachers Insurance and Annuity Association and the College Retirement Equities Fund. The association was organized in 1918 to pay retirement benefits to teachers and its companion fund was established in 1952 to permit investment of contributions in .

By 1977, more than 85 percent of all private four-year colleges and universities and more than 40 percent of all such public institutions used plans managed by the association and the fund. Since then even more schools have signed up.

DISCRIMINATORY INSURANCE PRACTICES COVER ALL AREAS OF INSURANCE

I. LIFE INSURANCE

Availability

- Women have limited access to many life insurance options. When these options are offered, the premium rates are unjustifiably higher for women than for men.
- Under some life insurance policies, a married woman can purchase coverage only up to the amount of coverage held by her husband.

Premium Rates

- Insurance companies use male-life expectancy tables to calculate women's premium rates

- for life insurance, giving females a three-year setback. (ex. A 46-year-old woman would pay the same premium rates as a 43-year-old man.) However, current mortality tables show that the life expectancy of a woman is 6-9 years greater than that of a man. And, women are penalized the full 6-9 year difference in pension plans. Thus, female longevity is only partially recognized when premium rates for women are set in life insurance. Even where women would benefit from a sex-based rating structure, their advantage is curbed by insurance laws and practices.
- Men must pay higher premiums for the same amount of death benefit life insurance, or get lesser amounts of insurance coverage for the same premium, than do women. (Ironically, since most men designate women as their beneficiaries, the impact of such smaller amounts of insurance falls on women.)
- For the same amount of whole life coverage and retirement monthly cash value policies women are charged more for the same monthly coverage.

II. AUTO INSURANCE

Premium Rates

- Young men pay higher premiums for auto insurance than do young women. A wry note: Insurance leaders often try to persuade women that they get a good deal in insurance because they pay less for auto insurance from age 17 to 25. But if lower female rates from age 17 to 25 are "fair", why stop there? Statistics show that women, life-1 have 30% fewer accidents than men. But as of age 25, they pay the same as men!
- Massachusetts, Michigan, and Pennsylvania, among other states, have banned sex discrimination in auto insurance.

III. HEALTH INSURANCE

Availability

- Health insurance of private insurance companies often excludes pregnancy and its related complications from coverage. They claim that pregnancy is a voluntary condition. Yet, other voluntary sex-linked disabilities, for example, those due to vasectomies, prostatectomies, or treatment for venereal disease, are generally covered for men.
- Health insurance policies rarely cover prenatal, postpartum care, family planning, and gynecological disorders and related services.
- Waiting periods for women are usually much longer than they are for men and benefit periods shorter.

Premium Rates

- When maternity benefits are provided, they are substantially lower than cost.
- Female policy holders pay considerably more for health insurance than male policyholders.
- Even without maternity coverage, an Iowa study showed that women pay as much as 50% more than men for identical policies in health insurance.

IV. DISABILITY INSURANCE

Availability

- Disability income insurance is generally not available to women whose jobs are performed at home, while such insurance is available to men with identical job and risk factors.

Premium Rates

- Premium rates in disability insurance are often much higher for women than for men carrying identical or better coverage. Case studies have shown that:

- Ten out of 13 insurance companies surveyed in Pennsylvania charged higher premium rates for women than for men carrying identical or better disability coverage.
- Women are charged rates 150% higher than men in the same job classification in New York for disability insurance.
- A rate differential of 45-115% exists between the sexes in Colorado.

Terms and Condition of Benefits

- Generally, disability insurance policies provide:
 - longer waiting periods for women in number of days an insured must be disabled before benefits are payable.
 - shorter basic periods -- maximum time for which an insured is deemed completely unable to work -- usually 5 years for men, 2 years for women.
 - shorter benefit periods -- maximum time for which the insured is paid benefits -- for women.
- Disability insurance is not available to part-time employees, causing a greater hardship for women who make up 70% of this category.
- Disability income insurance is often excluded for periods of disability resulting from medical or surgical treatment of sex-linked disorders.

V. RETIREMENT AND PENSION BENEFITS

Premium Rates

- Women receive lower monthly retirement benefits than men who have paid identical premiums.
- Premium rates and benefits are computed on the basis of age and sex. The greater longevity of women as a class compared with that of men as a class is cited as the unique reason for giving women lower monthly retirement benefits than men who have paid identical premiums. The U.S. Supreme Court in its 1978 *Manhart* decision prohibited such disparate treatment between men and women in employer-operated pension plans. Yet, private companies continue to follow such discriminatory practices.

(Sources for the above insurance information are fact sheets on insurance put out by WEAL and NOW.)

NAME: Vivian Marie DATE: 3-19-83

ADDRESS: 624 S. California #203 Helena

PHONE: 442-9830 (work) 449-7693 (home)

REPRESENTING WHOM? Self

APPEARING ON WHICH PROPOSAL: HB 358

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENT: As an Attorney, I believe sex-based rates are unconstitutional. As a citizen, I want MT to do what is right. As a female consumer of insurance, I support dropping sex as a basis for insurance rates because that is most fair - even if my rates rise.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.



MONTANA CHAPTER

Mr. Chair, Committee Members:

My name is Dee Adams. I am the MT Coordinator of the National Organization for Women. Today, I am representing the women and men of MT NOW in support of HB358, prohibiting the use of gender to determine insurance rates. The Insurance Industry freely admits to its sex discrimination, asserting that they are able to do this "fairly", and "even to the advantage" of women! They assert that sex discrimination is, in fact, justified. It is pointless to decide what might and might not justify sex discrimination. This basic tenet does not depend on blind faith; every special law, regulation, or arrangement that treats women and men discriminately, though purportedly intended to give women some advantage or protection, has worked to the economic disadvantage of women.....and in the long run, everyone.

Sex-segregated pricing of insurance is a major factor in the impoverishment of women, especially older women who comprise the majority of those living below the poverty level. Because of the sex-discriminatory policies of the insurance industry, insurance is less available to women. The point is: Government...local, federal, and state---winds up paying the bill. If the insurance industry is required to end its sex discrimination, the resulting lower number of impoverished women will remove a major burden to the taxpayers of our state.

Insurance lobbyists will tell you that any change will mean higher prices for the consumer, and that there are real differences in risk between men and women. They do not mention the real differences of risk between ethnic groups, races, and some religious groups, because they would not get away with it. They do not mention that sex-based consumer prices mean higher citizen taxes.

What is happening is that one group (the insurance industry) is discriminating against another (women), in the interest of making more money (profit for the companies). We do not argue with their need for profit. What we do argue with is that their profit is resulting in the further impoverishment of women. There is no "fair" discrimination. Sex discrimination, like racial discrimination, can, by its nature, never be fair. NOW is seriously concerned about this issue, as are other groups and individuals across the state and nation. We urge you to put away any idea of trying to do further studies in an attempt to discriminate "fairly"....it can't be done. We urge you to bring into law HB 358 and to end discrimination in the insurance industry.

SUBMITTED BY: Karen Zollman, 3/19/83, EXHIBIT NO. 5

618 South 8th Avenue
Bozeman, Montana 59715
March 18, 1983

Representative Jan Brown
Capitol Station
Helena, Montana 59620

Please submit to: Senate Business and Industry Committee
Senator Paul Boylan
Senator Kolstad, Chair
Senator Lee
Senator Dover
Senator Gage
Senator Goodover
Senator Severson

RE: HB 358

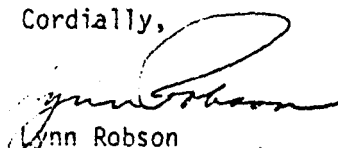
I emphatically ask you to support HB 358.

More than ever women are assuming roles as heads of households. Over 30% of this nation's children are dependant on these women. As main-wage earners their average salary is approximately \$10,000 a year. Many part-time jobs dominantly held by women do not offer "fringe benefits." As caretakers for so many children and as low wage earners women must have equity in insurance protection. Disability insurance, retirement payouts and health insurance plans based on sex-based tables are discriminating against the very segment of our society who most desperately needs that protection. When that protection does not exist public assistance programs bear the burden.

It is curious to me that the insurance industry is so adamant and vigorous in their opposition. According to a federal study the insurance industries opposition figures are highly inflated. I wonder if gender discrimination is somewhat profitable.

Studies show great differences in health and longevity of various ethnic groups and religious groups. If the insurance industry finds no actuarial difference in these cases then the gender an individual is born with should make no actuarial difference in risk classification either.

Cordially,


Lynn Robson

LEGISLATIVE NEWS

NATIONAL ASSOCIATION OF INSURANCE WOMEN (INTERNATIONAL)



January 1983

NAIW LEGISLATIVE POSITION STATEMENT

RE: Federal legislative initiatives designed to eliminate sex as a rating criteria in determining risk classifications for insurance rating purposes.

HR 100 (Dingle)

The NAIW Executive Board, at it's January Board Meeting, approved the following:

NAIW, as an association, will take a stand in opposition to Federal legislative initiatives, such as HR 100 (Dingle), which eliminate sex as a rating criteria in determining risk classifications for insurance rating purposes.

This type of legislation is not in the best interests of the public. It will have a dramatic additional cost impact on women, men, business and government. NAIW feels it is our responsibility, as a concerned group of professional insurance women, to get involved and actively work towards the defeat of this type of legislative initiative. The supporters of this type of measure have indicated a willingness to accept the economic consequences out of a sense of "fairness" to women, even though the evidence is abundantly clear that women will, in fact, have to pay more, not less, for insurance, particularly for the coverages they purchase as individuals.

What is not so clear is whether the cost implications of this type of proposal, i.e. HR 100, are generally known and whether there is indeed a widespread willingness or even ability to pay the higher prices associated with the proposal. Perhaps even more importantly, no one has yet addressed where the additional billions of dollars will come from to pay the increase in pension benefits mandated in this type of proposal.

Independent analysis by the American Academy of Actuaries, which neither supports nor opposed this type of initiative, indicates that women may be disadvantaged by its effects. Here's what the Academy's analysis shows:

- * An increase of \$700 million annually in auto insurance premiums for women;
- * An increase of \$360 million annually in life insurance premiums for women;
- * An increase in health insurance premiums such that medical expense insurance for women would increase \$1.6 million annually and disability insurance for men would increase \$94 million annually.

Further, the Academy study estimated that the administrative costs of implementing such legislation would add \$1.3 billion to the overall cost of insurance for everyone. These costs result from the alteration of existing contracts, development of new policies and products, and the determination of new rate tables.

This type of legislative initiative would require that insurers ignore the very real and statistically significant differences in claim and benefit costs between men and women when determining the premium to be charges. This means that:

- * Although women have a longer life expectancy than men, women would have to pay the same rate as men for life insurance, and,
- * although female drivers have a much lower auto accident frequency than young male drivers and young males cost over 50% more to insure than young female drivers, the young females would be forced to pay the same rate for auto insurance as young males.

Beyond this type of initiative's inequities, it will add a tremendous burden to the nation's public and private retirement systems. In the State of New York alone, the Superintendent of Insurance has estimated the eventual total cost of unisex pensions to the New York public retirement systems at approximately \$1.9 to \$2.1 billion. Many private businesses are struggling to remain financially solvent and too many have already become bankrupt. Therefore, it would only seem prudent to give very careful consideration and a great deal of additional study to the potentially devastating increase in unfunded pension liabilities which will result from this type of initiative.

In summary, legislation of this type, including HR 100, will have profound economic consequences for men and women, employers and taxpayers. As members of NAIW, we can make a difference by getting involved, writing letters, telephoning and visiting our representatives when the time is right.

You will be kept informed of all activity of legislative initiatives introduced in this area and HR 100's status. You will be asked by NAIW to get involved in the grass roots effort aimed at defeating this type of initiative.

--Jo Conway Roberts, CPIW
National Legislative Chairman

All questions and requests for information should be sent to the National Legislative Chairman, Jo Conway Roberts, CPIW, 1942 Maybelle Drive, Pleasant Hill, CA 94523.

Resolution of the Executive Committee
of the National Association of Insurance Commissioners

February 17, 1983

WHEREAS, the National Association of Insurance Commissioners ("NAIC") is a voluntary, unincorporated association whose membership consists of the chief insurance regulators of the fifty states, the District of Columbia and four United States territories; and

WHEREAS, the NAIC Executive Committee is comprised of the present NAIC officers, the most immediate past President and the respective officers of the four NAIC geographical zones and is empowered under the NAIC Constitution to manage the affairs of the NAIC and to communicate with federal organizations in order to promote understanding of state insurance regulation; and

WHEREAS, the House Committee on Energy and Commerce is currently considering H.R. 100, the "Nondiscrimination in Insurance Act" (the "Act"); and

WHEREAS, the insurance commissioners of the several states are responsible for the financial stability and solvency of insurance companies domiciled in their state; and

WHEREAS, the immediate impact of H.R. 100 on insurance contracts would be to mandate increased pension and annuity benefits and thereby create unfunded liabilities; and

WHEREAS, this Act's determination of what constitutes legitimate insurance rating practices at the state level fails to recognize the necessary element of causality utilized by state regulators in reviewing rating practices and is inconsistent with the spirit if not the letter of the McCarran-Ferguson Act, which empowers the individual states to regulate the business of insurance,

NOW THEREFORE BE IT RESOLVED, that the National Association of Insurance Commissioners urges the House Subcommittee on Commerce, Transportation and Tourism not to report this bill in its present form to the House Energy and Commerce Committee, and

BE IT FURTHER RESOLVED, that the Committee conduct further studies to determine the bill's impact on the financial stability of the insurance industry and on the state regulation of insurance, and

BE IT FURTHER RESOLVED, that a copy of this Resolution be sent to all members of said Committee.

RESOLUTION NO. 2

WHEREAS, the Fair Insurance Practices Act (S.2204) which would prohibit the use of gender as a rating and an underwriting criteria for all lines of insurance has been proposed in Congress; and

WHEREAS, S.2204 was reported from the Commerce Committee of the United States Senate on October 1, 1982; and

WHEREAS, standards for rating and underwriting insurance are presently regulated by the states as prescribed by Congressional policy in the McCarran-Ferguson Act; and

WHEREAS, numerous state legislatures and regulators have under review gender-based insurance rating as those laws and regulations apply to the citizens of the respective states; and

WHEREAS, the National Association of Insurance Commissioners has been studying this issue for some time and has adopted resolutions supporting gender-based insurance rating as being actuarially sound and in the best interests of consumers with respect to life and health insurance and pensions; and

WHEREAS, testimony by various academic and other groups indicates that enactment of S.2204 would increase pension costs by several billion dollars annually for business and for state and local governments, and would inequitably increase the costs of insurance coverage; and

WHEREAS, several state and federal courts, including a case

currently pending before the United States Supreme Court, are considering the propriety of gender-based benefits provided under employer benefit plans;

NOW, THEREFORE, BE IT RESOLVED that the Conference of Insurance Legislators in annual meeting this 14th day of November, 1982, in New York, New York, opposes any Congressional action which would preempt, limit or otherwise remove from the discretion of the several states the use of gender-based classification as underwriting or rating criteria as such action would be inconsistent with Congressional policy embodied in the McCarran-Ferguson Act.

HELENA

19 year old occasional operator

	Premium as of 1/1/83	Unisex	Difference
Company A	\$ 337	\$ 414	+\$ 77
Company B	430	530	+\$ 100
Company C	543	640	+\$ 97

23 year old principal operator

	Premium as of 1/1/83	Unisex	Difference
Company A	\$ 389	\$ 529	+\$ 140
Company B	428	533	+\$ 105
Company C	526	754	+\$ 228

BILLINGS

19 year old occasional operator

	Premium as of 1/1/83	Unisex	Difference
Company A	\$ 376	\$ 462	+\$ 86
Company B	470	580	+\$ 110
Company C	674	796	+\$ 122

23 year old principal operator

	Premium as of 1/1/83	Unisex	Difference
Company A	\$ 434	\$ 591	+\$ 157
Company B	460	578	+\$ 118
Company C	652	940	+\$ 288

Examples:

1. Single Female - 19 years old with no discounts or surcharges

Car - 1980 Chevy Malibu

Coverage - Bodily Injury/Property Damage - \$50/100/25
 Medical Payments (PIP) - \$2000 (Basic)
 Uninsured Motorists - Basic Limit
 Comprehensive - \$50 deductible
 Collision - \$200 deductible

2. Single Female - 23 years old drives to and from work. All other characteristics the same as Example 1.

STATEMENT OF STATE FARM MUTUAL
AUTOMOBILE INSURANCE COMPANY

IN OPPOSITION TO MONTANA HOUSE BILL NO. 358

State Farm represents 144,865 Montana auto insurance policyholders. State Farm opposes House Bill No. 358. The bill will result in unjustified rate increases for a number of insureds and it will reduce the amount of competition in the auto insurance market in Montana. The adverse effects of the bill are not offset by any corresponding benefit. The proposal will not increase fairness and equity in insurance rating. In fact, fairness and equity will be reduced. Certainly the proposed bill will not be of financial benefit to women. In fact, many women will be required to pay more.

The major argument of the proponents of this bill is that the use of sex and marital status are "socially unacceptable" as rating criteria. There is no question that we do have a responsibility to consider the civil rights implications of the use of sex and marital status in rating decisions. There has recently been a healthy and positive move in this country to discourage discrimination based on these classifications when there are other bases for distinguishing between individuals within the class. For example, we should not refuse a woman's application to do construction work if she can demonstrate that she has

adequate physical ability to do the work. But doesn't insurance rating present a different problem? It is an inherent characteristic of insurance that we have to look at large groups of exposures in order to get close to accurate pricing for individual insureds. The less refined the groups or classes are, the less accurate is the pricing.

Pricing insurance is a difficult task. Unlike any other economic enterprise, insurance companies must establish a price for their product in advance of any absolute knowledge of the cost of delivering it to the public. The pricing system is based on the proposition that each policyholder should pay a premium proportionate to the risk of loss that he or she presents.

It is ironic that the proposals to eliminate sex and marital status in automobile rating inure most to the benefit of young, single males. If you ask a member of the public whether sex and marital status should be used as insurance rating criteria, the answer to that question would probably be "no". But what if you asked the same members of the public whether older drivers, married drivers, female drivers and the elderly should help pay the costs of accidents caused by young, single male drivers? I think that most people would answer "no" to this question also.

There is no doubt that young, unmarried men are much more accident prone than any other group. The effects of sex and marital status show up clearly in insurance company

claim figures. For example, State Farm received 112 property damage claims per 1,000 insured vehicles driven principally by unmarried young males; 89 claims per 1,000 vehicles driven by unmarried females; 63 claims from young married men and 44 claims from adults. Young single drivers also tend to have more expensive accidents. The average property damage claim for cars driven by young single males was 27% more costly to State Farm than the average adult claim. The fact that young men are more accident prone than any other group is also confirmed by statistics collected outside the insurance industry. For example, studies by the California Department of Motor Vehicles show a significantly greater accident involvement by young, unmarried men.

If the marital status of the driver is eliminated as a rating factor, there will be a change in rates estimated as follows: The liability rates for young, married males would increase by \$60.00, the liability rates for young, single males would decrease by \$28.00. For the same bodily injury and property damage liability coverages, the effects of eliminating the sex of the driver as a rate classification would cause the rates for young females to increase by \$39.00 and the rates for young males to decrease by \$33.00. The effects on rates for other coverages are summarized in the attachments to this statement.

These rate changes represent only the short term effects. Other effects include implementation costs and

marketplace effects. The impact of House Bill No. 358 is difficult to predict and impossible to quantify precisely. Some of the more important possible effects are as follows:

1. An increase in the average price of insurance in general;
2. Companies will emphasize selling insurance to drivers, such persons as married females, to maximize profits. They will avoid selling to young, single males. If a company will not sell a person insurance, he or she can obtain it through an assigned risk plan. Insurance under this plan is expensive. Montana now has an assigned risk involving only .12% of the drivers. This is the ninth lowest in the nation. The assigned risk market can be expected to increase dramatically if House Bill No. 358 passes;
3. The number of uninsured drivers will increase. As the premiums for certain people increase, many of them will simply not purchase it;
4. The number of underinsured drivers will increase. An underinsured driver is one who does not have enough insurance to cover the injured person's damages. Montana requires drivers to buy at least \$25,000.00 of liability insurance. Many people buy more insurance coverage. As premiums increase for certain persons, many will simply buy less insurance;
5. Increased regulatory efforts and costs to assure equal availability of insurance. In states that have

already prohibited sex and marital status as rating criteria, governments have been forced to attempt to restrict insurers' ability to underwrite. Michigan, Massachusetts, North Carolina and Hawaii all have some form of a "take-all-comers" law. These laws force insurance companies to sell to everyone who comes through the door. Once that happens, some insurance carriers may attempt to avoid selling insurance through marketing techniques in order to achieve economic goals. We have seen signs of this already in the four states prohibiting sex and marital status as rating criteria, and regulators have responded by attempting to control marketing techniques. The lesson in this logic is that once the government heads down this particular road there is no end to the process if it is to carry out its mandate for social rather than economic pricing;

6. Money will be spent to implement unisex rating rather than to develop or investigate other new pricing techniques.

Proponents of the bill argue that other classifications can be successfully substituted for sex. The commonly suggested alternatives are driving record and miles driven. These alternative rate classifications have been thoroughly analyzed and will not work. Mileage is not an effective substitute for sex since females have a demonstrably lower accident rate than males within each category of miles driven. Driving record is not a sufficient substitute for

either sex or marital status, even though more income is generated through accident and violation surcharges from young males than any other group, because the amount of accident surcharge would have to be unreasonably large to generate the same amount of premium. Many authorities believe that exclusive reliance on driving record as an auto insurance rate classification could work only if a time span of 10 to 20 years is used and inexperienced drivers are classified toward the top of the rating scale. Use of driving record is also dependent on law enforcement practices and record keeping within the jurisdiction.

Rating based strictly on accident or violation involvement is not statistically justified. Some proponents argue that premiums should be calculated only on the basis of actual individual experience for traffic violations or accident involvement. But the typical auto, insured for all coverages, will generate an insurance claim of some kind only once every five to seven years. Also, the quality of Department of Motor Vehicle records varies widely from state to state and no state has complete records accessible for the necessary time period. The occurrence of accidents and violations is a useful predictor of the likelihood of future loss. However, the absence of an accident or traffic violation on an insured's record does not fully reflect that the person is a relatively safe driver. Correlation to future loss based on sex, marital status and other factors are much greater and are necessary to achieve accuracy in pricing.

The legislature and the courts and public must at some point decide what are fair practices in the context of insurance rating. There are no objective tests which can differentiate with certainty an individual's insurance risk from that of a group with similar risk characteristics. It is precisely this uncertainty that leads to the need for insurance. If the analysis of group experience to set rates is determined to be "socially unacceptable" then this simply means that the sale of insurance is also socially unacceptable. Therefore, some aspects of fair practices applicable in other contexts may not be appropriate or possible in the insurance context. It is the position of the State Farm Insurance Companies that insured individuals are treated fairly if they are charged prices which reflect the value of the risk they transfer to the insurance pool. We believe that this is true not simply as a matter of theoretical preference, but as an important condition to the sound operation of insurance programs. Determining the value of the risks transferred necessarily involves the use of averages and classification variables, making the use of averages and class groupings essential to the insurance business.

Consideration of what is fair or unfair should take place within this conceptual framework.

MONTANA

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY

EXAMPLES OF THE EFFECT OF ELIMINATING
MARITAL STATUS OF DRIVER AS A RATING FACTOR

	Married Male Age Under 21 Commuter Use			Single Male Age Under 21 Commuter Use		
	Current Annual Premium	Approximate Annual Change	% Change	Current Annual Premium	Approximate Annual Change	% Change
Billings	\$ 746	\$ +517	+69%	\$1,388	\$ -125	- 9%
Helena	\$ 683	\$ +472	+69%	\$1,270	\$ -115	- 9%
Missoula	\$ 611	\$ +422	+69%	\$1,137	\$ -104	- 9%

* These examples are for a 1982 Ford Escort (IRG-11), owned or principally operated by the described driver and with the following coverages:

25/50/25 BIPD Liability
\$5,000 Medical Payments
Full Comprehensive
\$100 Deductible Collision
25/50 Uninsured Motor Vehicle

MONTANA

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY

EXAMPLES OF THE EFFECT OF ELIMINATING
SEX OF DRIVER AS A RATING FACTOR

	Single Female Age 21-24 Pleasure Use			Single Male Age 21-24 Pleasure Use		
	Current Annual Premium	Approximate Annual Change	% Change	Current Annual Premium	Approximate Annual Change	% Change
Billings	\$ 571	\$ +211	+37%	\$1,018	\$ -236	-23%
Helena	\$ 522	\$ +193	+37%	\$ 932	\$ -217	-23%
Missoula	\$ 468	\$ +171	+37%	\$ 834	\$ -195	-23%

* These examples are for a 1982 Ford Escort (IRG-11), owned or principally operated by the described driver and with the following coverages:

25/50/25 BIPD Liability
\$5,000 Medical Payments
Full Comprehensive
\$100 Deductible Collision
25/50 Uninsured Motor Vehicle

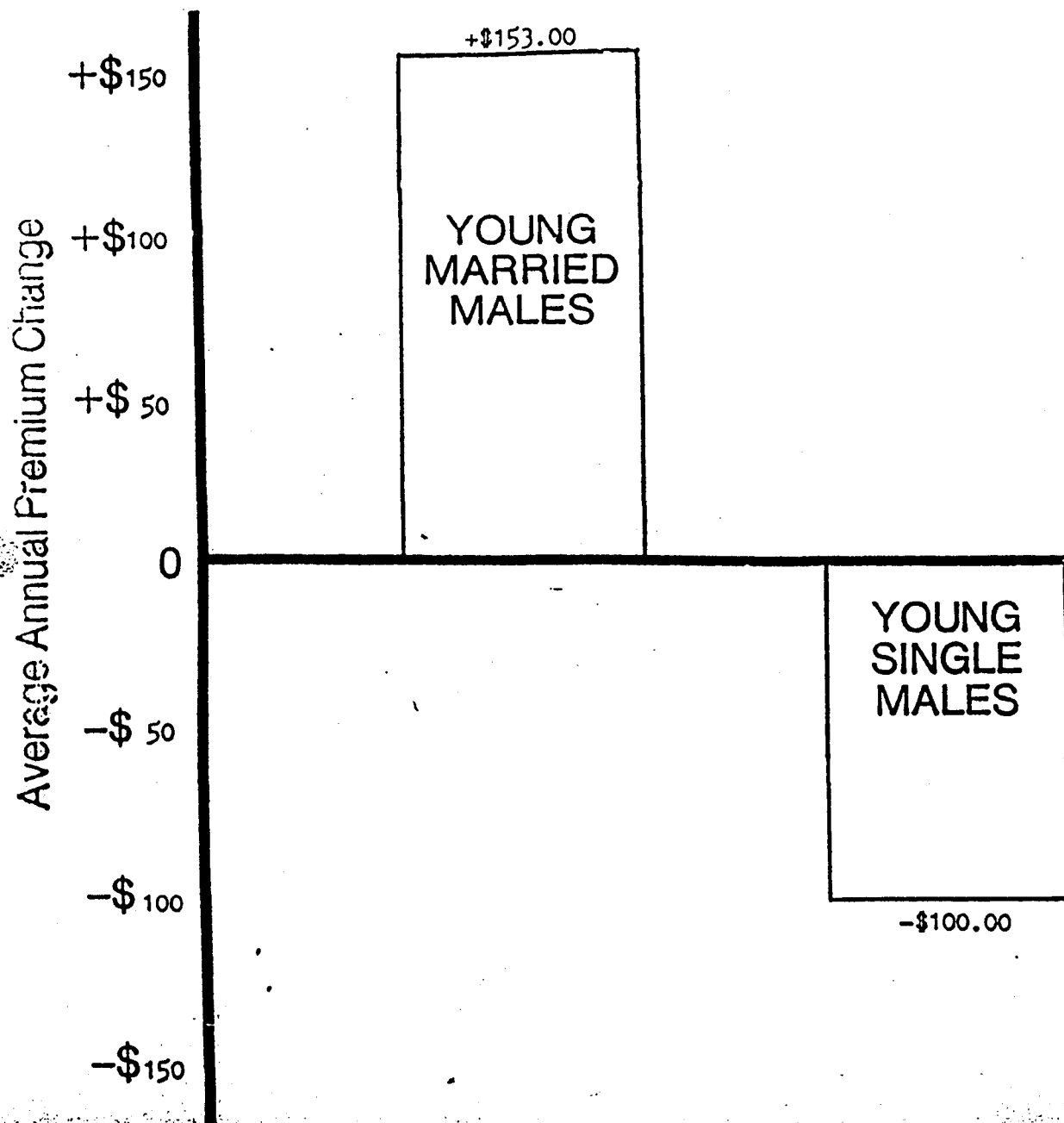
MONTANA

Estimated Average Annual Change in

Total Package Policy

Premium for State

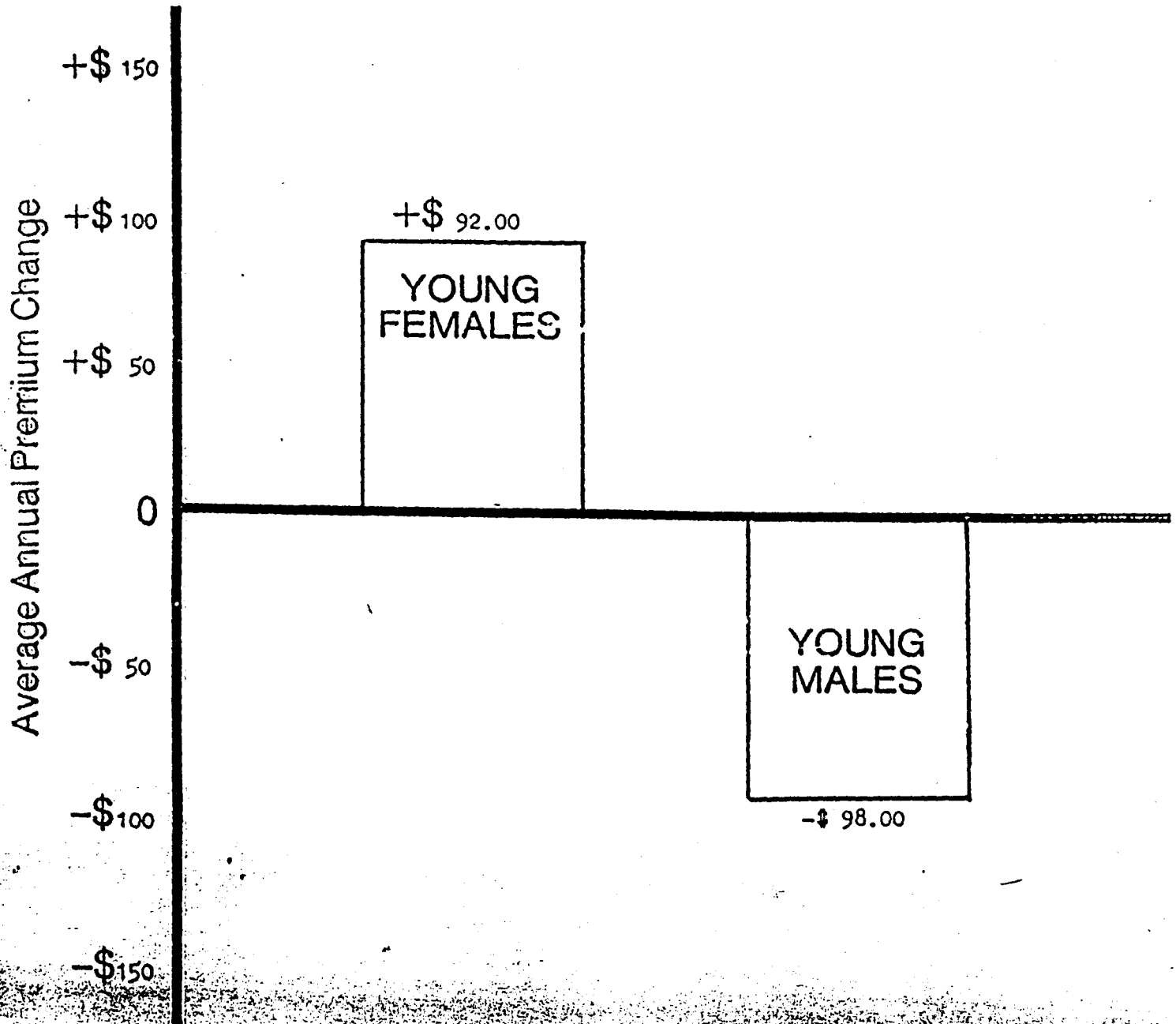
Farm Mutual Policyholders if Marital Status of Driver is Eliminated as a Rating Factor.



MONTANA

Estimated Average Annual Change in Total Package Policy
Farm Mutual Policyholders if Sex of Driver is Eliminated as a Rating Factor.

Premium for State



ACCIDENT MEANS BY SEX AND ANNUAL MILEAGE

(Renewal applicants, 6 year record)

1975

MALE
FEMALE

Annual Mileage								
Under 1,000	1,000- 4,999	5,000- 9,999	10,000- 14,999	15,000- 19,999	20,000- 29,999	30,000+	Mean Total Accidents	Total Miles
.40	.39	.39	.40	.44	.52	.58	.43	16,000
.19	.23	.29	.35	.33	.39	.40	.28	8,000

Source: The California Driver Fact Book, Table 15.

MICHIGAN

Rate Comparisons Before and After Elimination of Sex and Marital Status as Rating Variables

These rates reflect premiums applicable before and after the elimination of sex and marital status as rating variables, effective January 1, 1981 for youthful (under 21) principal operators, with no accidents or convictions, for a 1981 Oldsmobile Cutlass Supreme (IRG 11, Age Group 1) with the following coverages:

25/50/25 BIPD
Full PIP
Coverage N
Full Comprehensive
\$100 Deductible Broadened Collision

	Married Female			Married Male			Unmarried Female			Unmarried Male		
	Before	After	% Change	Before	After	% Change	Before	After	% Change	Before	After	% Change
northern counties	\$175.94	\$469.04	+166.6%	\$342.62	\$469.04	+36.9%	\$342.62	\$469.04	+36.9%	\$675.98	\$469.04	-30.6%
etroit suburbs	260.11	685.36	+163.5	506.53	685.36	+35.3	506.53	685.36	+35.3	999.37	685.36	-31.4
estern counties	173.09	457.60	+164.4	337.07	457.60	+35.8	337.07	457.60	+35.8	665.03	457.03	-31.2

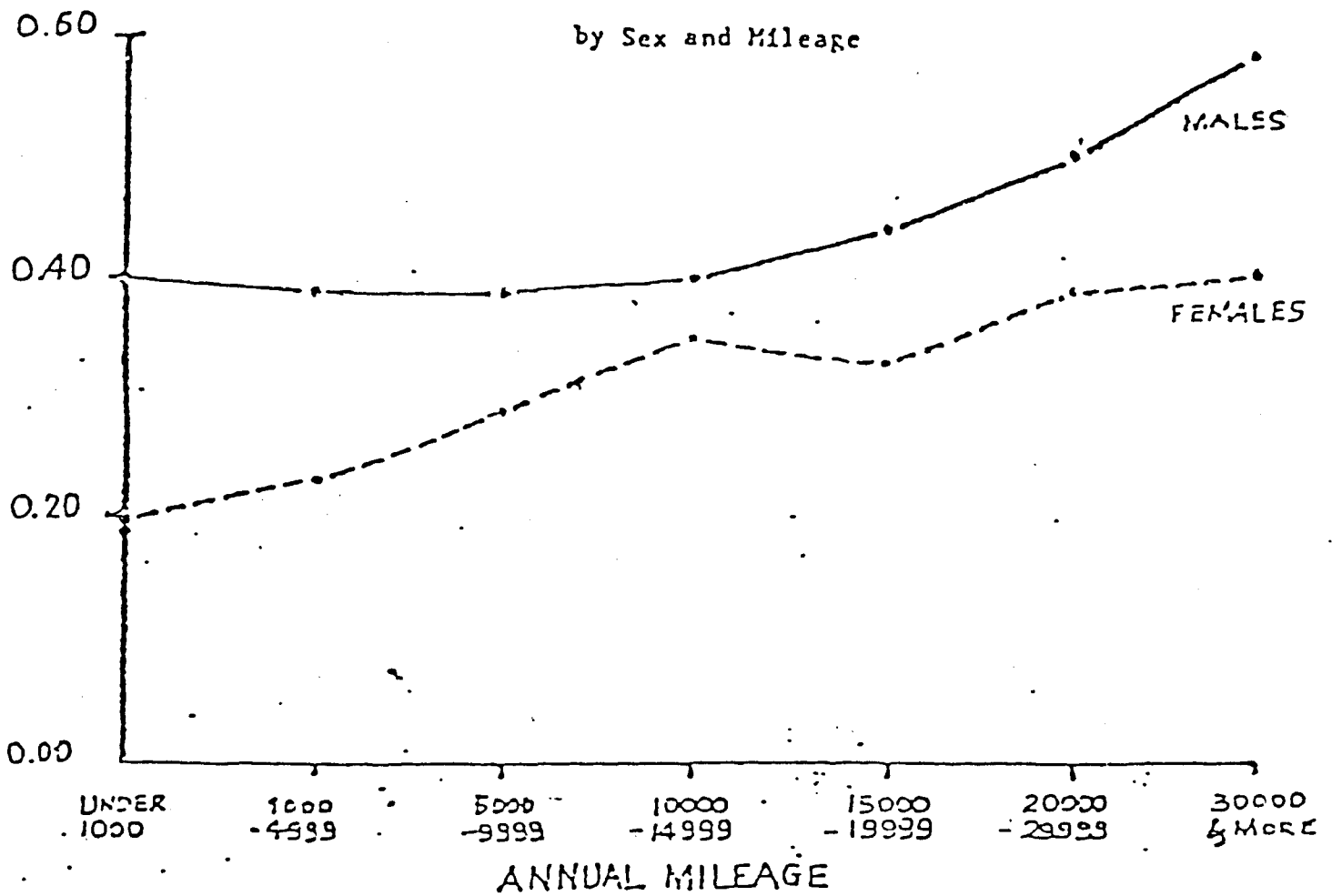
CONCLUSIONS

State motor vehicle records are too fragmentary to be the primary or sole means of evaluating driver performance. Of the 5,027 accidents studied, 3,418 (68 percent) eluded the MVR even though almost every one of these serious accidents, by state laws, should have been recorded. Although police were called to the scene 74 percent of the time, 3,904 cases (78 percent) showed no violation on the MVR.

The study suggests weaknesses and geographical inconsistencies not only in the state MVR systems, but also in traffic enforcement itself. These need to be addressed by the interested parties. Privacy issues and gaps in law enforcement impair the MVRs as a data source for use in auto insurance rating. This should be of concern not just to insurers, who must operate within the existing limitations, but also to those regulators who may want MVRs to be given more weight in setting insurance rates. Departments of motor vehicle administration need to evaluate the present MVR files and, perhaps of equal importance, law enforcement agencies should consider the implications for highway safety because MVRs are the basis for driver license review and administration.

ACCIDENTS PER PERSON

by Sex and Mileage



Source: California Driver Fact Book
Table 15

Residual Market Penetration

Exhibits 16, 17 and 18 rank the states by residual market penetration.
 In 1980 there were 22 states under 1 per cent compared with 20 in 1979.
 In 1980 there were 38 states under 5 per cent compared with 33 in 1979.

Exhibit 16

State Rank by Residual Market Penetration 1980 — Under 1%

1. Utah	.01	12. Wisconsin	.17
2. Colorado	.05	13. New Mexico	.18
3. Oregon	.06	14. Oklahoma	.18
4. Ohio	.07	15. Wyoming	.22
5. Idaho	.08	16. Nevada	.23
6. Arizona	.10	17. North Dakota	.39
7. Iowa	.11	18. Illinois	.49
8. Nebraska	.11	19. Arkansas	.54
9. Montana	.12	20. Missouri	.71
10. South Dakota	.13	21. Alabama	.72
11. Indiana	.14	22. Washington	.87

STATE VARIATIONS IN ACCIDENT REPORTING

The study showed wide differences among states in the completeness of the MVRs. In Alabama, only 1 percent of the accidents that had occurred a year or more earlier showed up on the MVRs. By contrast, more than 70 percent of the accidents appeared on the MVRs in Wisconsin, North Carolina and South Carolina. Even in these states, however, more than 25 percent of the accidents were not recorded on the MVRs.

Figure 1 shows the percent of the accidents surveyed found on state motor vehicle records one year following the date of the accident. The states have been grouped into four categories, as follows:

Motor Vehicle Accident Records Not Available to Insurers

Massachusetts
West Virginia
Kentucky

Indiana
Minnesota
North Dakota

Washington, D.C.
Alaska

Less Than 25 Percent of Accidents Recorded on MVRs

Connecticut
Delaware
Maryland
Georgia
Alabama

Idaho
Nevada
Utah
Montana
Wyoming
Hawaii

Mississippi
Arkansas
Oklahoma
Illinois
New Mexico
Missouri

25 Percent to 50 Percent of Accidents Found on MVRs

Rhode Island
New York
Pennsylvania

Michigan
Florida
Tennessee

Texas
Colorado
Arizona

More Than 50 Percent of Accidents Found on MVRs

Maine
New Hampshire
Vermont
New Jersey
Virginia
North Carolina

South Carolina
Ohio
Wisconsin
Iowa
South Dakota
Nebraska

Kansas
Louisiana
California
Oregon
Washington

STUDY : MARCH 1981

NAME: Linda McCluskey DATE: March 19, 198

ADDRESS: 1500 Virginia Dale, Helena

PHONE: 443-7555

REPRESENTING WHOM? Self

APPEARING ON WHICH PROPOSAL: HB 358

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? XXX

COMMENT:

STATEMENT OF LINDA McCLUSKEY ON H.B.358

Mr. Chairman, members of the committee:

My name is Linda McCluskey. I live here in Helena. I am speaking for myself. After moving to Helena several years ago, my partner and I opened a clothing store, "Jeans, Etc." We now have two stores in Helena, and stores in 5 other Montana cities and one in Washinton.

I have always believed in equal rights for women. I have always supported ERA. However, I do not support H.B. 358. I do not believe that it is either right or fair that the Legislature pass a law which will raise life insurance rates and auto insurance rates for women.

Thank you.

Exhibit 17

**State Rank by Residual Market Penetration
1980 — Under 5%**

23. West Virginia	1.14	31. Alaska	2.60
24. Hawaii	1.27	32. Tennessee	2.61
25. Minnesota	1.34	33. Maine	3.58
26. Kentucky	1.56	34. Kansas	4.03
27. Mississippi	1.87	35. Maryland	4.07
28. California	2.00	36. Vermont	4.22
29. Michigan	2.03	37. Texas	4.36
30. D.C.	2.07	38. Georgia	4.41

Exhibit 18

**State Rank by Residual Market Penetration
1980 — Over 5%**

39. Pennsylvania	5.05	46. New York	14.00
40. Florida	7.02	47. South Carolina	19.97
41. Virginia	7.07	48. North Carolina	22.58
42. Rhode Island	7.99	49. New Hampshire	23.50
43. Delaware	9.67	50. Massachusetts	35.92
44. Louisiana	10.54	51. New Jersey	36.03
45. Connecticut	13.93		

STATEMENT OF LESTER H. LOBLE, II, ON
BEHALF OF THE AMERICAN COUNCIL OF LIFE INSURANCE

My name is Lester H. Loble, II. I appear here on behalf of the American Council of Life Insurance (ACLI). ACLI is a trade organization whose member companies write 95% of the life insurance in force today and 99% of the insured pension business in the U.S.

We feel that this bill is premature. Presently, there are 4 cases pending before the U.S. Supreme Court on this issue. One, the Norris case, will be heard one week from today--with a decision likely in June.

There are 3 bills pending in Congress directly affecting the issue under consideration. One of the most difficult problems is the possible retroactive effect of HB 358. For example, how will this bill affect the life insurance contracts most of us have in force today? Does this law change the premium rates? Does it change the face value of the contracts?

We feel that the Legislature should take advantage of the information which will be developed in Congress, in the Courts, and here in Montana during the interim under HJR 29.

We believe thoughtful consideration should be given to 2 provisions in the Montana Constitution. Article XIII, Section 1, says:

"The Legislature shall pass no law retrospective in its operations which imposes on the people a new liability with respect to transactions or considerations already passed."

How do you "top up" a pension plan, as the proponents say, without creating a new liability for a transaction already passed?

The second provision is Article II, Section 31, which says:

"No. . . law impairing the obligation of contracts . . . shall be passed by the Legislature."

This bill will impair life insurance contracts by requiring changes in premiums or benefits or both.

I have attached to my remarks a copy of the statement of Barbara J. Lautzenheiser on H.R. 100. Ms. Lautzenheiser is president of the American Academy of Actuaries and senior vice president of Phoenix Mutual Life Insurance Company. Her analysis of the issues presented is excellent. I hope you will have time to read it. I also have with me Ed Zimmerman from the ACLI, who is familiar with the federal court cases and the proposed Congressional enactments. He will be happy to answer questions.

We know of no State that has passed a bill as broad in scope as HB 358. Recently, North Dakota, Maryland and Oregon have all

I could not put it better than the editorial in yesterday's Great Falls "Tribune":

"Hasty action on a bill without a clear idea of its implications would do an injustice to women, men and the cause of anti-discrimination."

Thank you.

Insurance, discrimination and time

The Senate Business and Industry Committee is set to discuss a bill Saturday that will have far-reaching implications for Montanans. The bill is intended to prohibit the use of sex or marital status as a basis in determining rates for insurance policies and retirement plans.

The bill is less than a page long, but its brevity does not imply the matter at stake is simple. Indeed, legislators may have trouble with the measure because of its potential complexity, and the abundance of data favoring and opposing the bill.

A number of women's groups have made passage of this bill, which was approved by the House on a 63-35 vote, a priority. Indeed, national women's organizations are working hard to push similar changes through Congress.

The Women's Lobbyist Fund in Montana argues that women and men are discriminated against in rates and benefits from insurance and pension plans because such plans are based on sex classifications and on marital status. For some kinds of insurance women end up paying more simply because they are women; in other instances — car insurance for young adults,

for example — men pay more.

Nationwide, pension plans in particular have come under attack because women receive smaller monthly benefits than men who have paid identical premiums. The reason? Women as a group have a longer life expectancy than do men. While women may get a smaller monthly payment, the reasoning goes, their total benefit will be about the same as what men receive because the women will live longer.

Supporters of HB358 insist that grouping people by sex is considered discriminatory in other areas, such as employment. They want that attitude extended to insurance.

Insurance industry representatives have a complicated response to these charges. They will explain to senators that the industry necessarily must make use of averages and class groupings to determine risk. Insurance companies base their profits on an unknown quantity — what will happen in the future. To help predict this, the analysis of group experience has been used over the years to determine insurance rates for individuals.

The industry points out that under such leg-

islation as HB358 many women will be required to pay more. But they have more substantial fears, which include an increase in the average price of insurance in general, and a corresponding increase in the number of people who either are underinsured or not insured at all. The industry will talk about assigned risk plans and "take-all-comers" laws.

At this point, the insurance industry is on the defensive in Montana. Its business is complicated. To understand it requires close attention — something that is difficult to give in the face of cries about discrimination and possible class action suits.

Time will be needed to sort out the problems with insurance classification systems. It may be the kind of time that is not available in the legislative session. If senators find they cannot sort out the matter, and we doubt they will be able to, they ought to call for study — not to duck the issue, but to make sure the problems of insurance discrimination and any accompanying solution are clear.

Hasty action on a bill without a clear idea of its implications would do an injustice to women, men and the anti-discrimination cause.

STATEMENT OF BARBARA J. LAUTZENHEISER

on

H. R. 100 "NONDISCRIMINATION IN INSURANCE ACT"

on behalf of the

PHOENIX MUTUAL LIFE INSURANCE COMPANY

before the

SUBCOMMITTEE ON COMMERCE, TRANSPORTATION & TOURISM

UNITED STATES HOUSE OF REPRESENTATIVES

February 24, 1983

Washington, D.C.

H.R. 100

My name is Barbara J. Lautzenheiser. I am a Fellow of the Society of Actuaries and President of that professional organization, a Member of the American Academy of Actuaries, and Senior Vice President of the Phoenix Mutual Life Insurance Company. I have worked in an actuarial capacity for over 22 years and have been heavily involved in sex discrimination issues in insurance for the last 10 of those years.

I am appearing on behalf of the Phoenix Mutual Life Insurance Company and myself, an informed, concerned woman and appreciate the opportunity to do so.

Sometimes in our zeal for what we deem right we lose sight of the reality resulting from effecting that right. I firmly believe in equality of opportunity. Were it not for that, I wouldn't have the opportunity to be here today. But reality forces me to accept the fact that equality of opportunity does not always lead to equality of result, and many times equality of result is not possible at all. Equal education does not lead to equal intelligence; equal medical treatment does not lead to equal health; and equal rates for men and women does not lead to equal financial security.

It's on these grounds I'm opposed to passage of H.R. 100. Its intent is constructive and laudable, but its effect is destructive and implausible. Its solution is appealingly simple, but appallingly simplistic.

I, too, am concerned about women - both those working inside and outside the home. I'm concerned about their opportunities and their financial security, today and tomorrow. Elderly single women comprise 61% of all individuals 65 and over, and almost 40% of them live near or in poverty¹. Seventy-two percent of the elderly poor are unmarried women². It's not surprising they are more than a majority. In fact, it's confirmation of their greater longevity. And it's not surprising that they live in poverty. Their pensions and income almost entirely flow from their husbands' pensions, not their own. And, unfortunately, when the pension benefits under their husbands' plans were elected they were elected on their husbands' lives only. So when their husbands died they were left with only their spouses' benefits under Social Security on which to live.

But, that's changing today. Over 50% of all women are employed or currently seeking jobs³. And the Labor Department estimates that by 1990, 95% of American women will be in the paid labor market. In all, nearly 2/3's of the women in the labor force in 1978 worked to support themselves and their families, or to supplement low family incomes⁴. Seventeen percent of all American families are single parent families headed by a woman⁵, and wholly dependent upon that woman for financial support.

Clearly women need and want financial security. And a major element of that financial security is insurance - the mechanism which provides financial security for unforeseen and unpredictable events in the individual woman's life - the mechanism which provides for the individual's unpredictability by the use of a large number of individuals' predictability - a large number of similar individuals' predictability. To price insurance fairly and equitably, the price is determined by charging the person according to her or his own characteristics - according to her or his own age, health, occupation, avocation - and sex, so that the individual's own expected experience is used for pricing as much as possible in a mechanism that must of necessity put people into groups - must of necessity fairly discriminate to put them into groups.

I find it ironic that a practice established to benefit women, i.e., the practice of having separate prices for women, is now being accused of being a detriment to women. As a former employer of mine once said - "no good deed goes unpunished"!

In the late 1800's women were charged more for their life insurance because maternity deaths were so high - as they still are in many countries with poor sanitation. However, as sanitation improved, so did womens' mortality until no difference in rates were charged. As the greater life expectancy of newborn baby girls grew from 1.2 more years than newborn baby boys, in 1920 to 5.7 more years in 1950, no difference still was provided for in life insurance prices. Women tended to purchase lower amounts of insurance, hence the larger per policy issue costs were deemed to offset the lower mortality costs.

But, in the 50's, recognizing that more women were working and would want to buy more life insurance, and following its long recognized policy of providing the lowest price possible, and even lower prices for any group it can identify as a lower cost group, the Phoenix Mutual Life Insurance Company, (we believe the first company to do so) began selling life insurance at lower rates to women. Similarly, Phoenix Mutual was one of the first two companies to give non-smoker discounts - as early as the mid 60's.

That's how competition in the insurance industry works. Any group which can be identified as having lower costs today which are expected to continue into the future, to a significant enough degree to justify keeping track of it separately, is given a cheaper price. Thus, the insurance consumer and the insurance company have both benefited - the insurance consumer through lower prices, reflecting more and more of her or his own individual characteristics - the insurance company, through more sales because of lower, more competitive, prices. By 1978, the life expectancy of a newborn baby girl had increased to 7.8 more years than the life expectancy of a newborn baby boy - clearly a significant difference. Women are a lower cost group, justifying lower, more competitive prices.

There are those who have said that we can find a substitute for sex in pricing. I can assure you we have not been able to do so. We've known that "sex" has been a "suspect" rating characteristic for 9 years now - my first testimony to a governmental body on this issue was in 1974. Many studies have been done in an attempt to find a substitute. It clearly would have been easier to change to a new classification than to attempt to educate the entire nation on actuarial science, rating classifications and their appropriateness. I'm frequently not even capable of educating some in the industry on these aspects - let alone the nation. But no substitute, in spite of our attempts, has been found in those 9 years.

It may be fashionable to have unisex jeans, but science has not yet found any unisex genes. - This genetic difference at birth has a lifetime impact. The genetic difference shows up even before the child is born. There are 150 baby boys conceived for every 100 baby girls. But, a 20-25% higher mortality prior to birth, prior to any socioeconomic impact, produces only 106 baby boys born for every 100 baby girls. Eighty-five percent of all children born with genetic defects are male⁶. Throughout life, females continue to live longer than males, as is the case in all mammals.

These genetic differences also lead to significant differences in why, how, and for how long men and women become disabled and hence lead to different claim costs for health and disability insurance - even excluding maternity disabilities. And similarly, in auto, for young men and women driving the same number of miles, women have fewer accidents and hence lesser costs.

Recognizing these differences in costs in the pricing of products was not to "get even" with some groups, not to unfairly discriminate against some groups, not to disadvantage some groups, but to fairly price insurance according to its costs, hence producing better rates to the consumer both because the rates are closer to the individual's own costs and because the better an insurance company can identify its costs, the smaller the margins it needs to build into its rates. If a cost factor is not, or cannot by federal mandate, be taken into consideration in pricing an insurance product - especially one with a lifetime rate guarantee such as in life and pension insurance - to assure that there are sufficient funds to pay the benefits, the only sound assumption with which to price is that all costs will be the higher costs. The result? Higher costs for all consumers and for some the non-availability of coverage because the price is too high to buy.

Those who argue that although the costs between the sexes are different today, the costs will equalize over time because of socioeconomic changes go against the best actuarial minds in the industry whose responsibility it is to assure that there are sufficient funds to pay benefits over 10, 20, even 100 years into the future. Their best actuarial judgments are that the differences will persist, and my best judgment is that they will widen even further.

Thus, a long term overall impact of this bill would be for all insurance prices to increase to the buying public.

However, insurance prices for many women won't wait that long. They'll increase right away. Health insurance for many women is provided through their or their husband's employer - at the same rate for men and women. Similarly, a large proportion (introduction to this bill says 95% - although I would suspect it's not quite that high) of employees, both in government and in private insurance, are already covered under defined benefit plans which provide equal monthly benefits to both sexes. Life and auto insurance, however, are generally purchased by the individual, i.e., they are not provided, at all in the case of auto, nor for a sufficient amount in the case of life insurance, by the employer. So they are purchased and paid for directly by the women.

Right now, based on sex distinct rates these two types of insurance, auto and life, are less expensive for women - 15-25% less in the case of life insurance and 18-66% less in the case of auto insurance. With a unisex rate, a 23 year old single woman in Hartford could have her yearly auto insurance raised by as much as \$600, in Newark, \$700 more per year, in Philadelphia, \$800 more per year.

It's true these increased auto rates would only apply to single women. But, how many of these single women are there and who are they? According to a Labor Department report done in 1978, 40% of the women in the labor force were single. And 58% of the minority women in the labor force were single. So where does this bill hit the

hardest - on the minority woman - on the insurance she must have, auto insurance - on the woman who has to work to support herself and her dependents because there's no one else to do so.

And what about life insurance? A 25 year old non-smoking woman would have to pay \$150 more for a one year term, \$50,000 policy, than she now would pay. A 35 year old would pay \$350 more, a 45 year old \$1,750 more and a 55 year old \$4,250 more. Women of all ages, single and married would pay more. Again, where does this hit the hardest - on the 17% of American families which are single parent families headed by a woman who needs that life insurance on herself to assure that her children will be taken care of - and on the nearly 2/3's of women in the work force who work to support themselves and their families or to supplement low family income, whose families, if they died without life insurance, could not financially survive. I mentioned earlier that my first testimony on the subject was 9 years ago. As I left the hearing room that day a black woman turned to me and said "Black women were finally able to afford the life insurance they really need, and now they're going to take it away from us".

The difficulty with this legislation is it addresses the "symptoms" instead of the "disease". The "disease" is the one I identified as the intent of this legislation - the financial security for women and the part insurance plays in providing for the uncertain and unforeseen events of that financial security. The "disease" can be seen by synthesizing the testimony of the proponents of this bill.

Thus, pension prices for all - men and women - will go up, and hence employers' costs will go up, especially smaller employers' costs. Smaller employers are the employers now generally providing unequal monthly pension benefits because they're the least costly and most predictable pension plans available. Hence, these are the plans whose costs would increase.

Many pension plans would merely change to those which do not provide for lifetime benefits, but instead only provide benefits for a fixed period, thus eliminating a valuable pension right. However, this would allow employers once again to predetermine and control costs, while still providing equal benefits for the sexes.

In today's economy, any increased costs, no matter how minimal, are significant and these increases, coupled with the administrative costs necessary to implement the changes, could cause these smaller employers to reduce or eliminate their plans, as many did when ERISA was enacted. In an environment where Social Security is returning to more of a floor of protection, the need is for more private pensions, not fewer. Private pensions should be buttressed, not burdened.

Even if the higher costs do not affect the benefits of the pension plan, these costs will be built into these employers' products' costs, further adding to inflation and its consequent loss of jobs.

Thus, the impact of legislation, even if restricted to only requiring that future monthly pension benefits be the same regardless of sex, would have negative effects. But, this would be by far the least negative of the many impacts of this bill. Also requiring that monthly benefits be equalized for the sexes in pension benefits already purchased, would have an even more dramatic effect. Again, the impact would be especially severe on smaller employers who thought their costs were controllable and had been funded and who now would have to increase funding to raise monthly pension benefits for women to the mens' level. The result? Blatent pointing out of the fact pension costs are higher for women (remember the bill can change prices but not costs) thus even possibly impacting womens' jobs. Even more smaller pension plans would be terminated.

One of the major employers that would be impacted under this aspect of the legislation are the states and municipalities, many of which do not now provide equal monthly pension benefits. A recent crude estimate is that the State of Connecticut would have to increase taxes by a sufficient amount to provide \$10 million more per year to fund equal monthly benefits to current retirees and employees and 90% of these benefits would go to men. Al Lewis, Superintendent of Insurance for the State of New York, estimates that it would take \$2 billion in additional taxes to equalize pension benefits back to the date of the Manhart Supreme Court decision, the first such decision on similar pension cases.

Yes, the insurance industry and employers would cope, but the American public, employees, buyers of employers' products, and taxpayers would pay - through reduced pension benefits, elimination of pension benefits, elimination of valuable lifetime pension options, higher costs of goods produced by these employers and higher taxes.

Plans that terminated, as a result of this legislation, would have further negative impact on the Pension Benefit Guaranty Corporation's solvency, as well.

But, the impacts of the bill don't stop there - don't stop with the impact of the major concern of the proponents of the bill, i.e., equal monthly pension benefits. As I noted earlier, the bill requires life insurance and auto insurance to increase for many women, especially for those who need it most, the women who are sole supports of themselves and their dependents - with no offset in decreased costs in their health and pension benefits, the vast majority of which are already provided by employers on a sex neutral basis.

And the bill would apply to current life insurance contracts as well. One interpretation of how the bill would be implemented, if it remains applicable to current contracts, would require that no one's benefits be decreased and no one's premiums be increased, yet future payment of benefits and premiums would have to be equal between the sexes. This interpretation, outlined only recently, is currently being studied by insurance companies. Some companies have completed

very rough estimates of these costs. Five such companies' estimate that if this interpretation were followed, the reserve increase would be 33% of net worth in one company's case, 50% of net worth in another company's case and 95% of net worth in another, but would be 30% more than net worth in another's company case and 70% more than net worth in yet another company's case. I appreciate that comments like "it would cause insolvency" are not believed - but in some cases that would be the result. These companies becoming insolvent would enter the state guarantee funds, which spread the insolvency costs to other insurers, further impairing the solvent companies' solvency. Those companies not becoming insolvent which were mutual companies, could make modifications in their dividend scales, but both the funds necessary to bring everyone's benefits to a maximum and to absorb other companies' insolvencies would dramatically increase policyholders' costs, further encouraging policyholders to surrender, again further impairing the companies' insolvency.

Clearly, this is not a viable interpretation. The other interpretation, however, requires the increasing of premiums currently guaranteed in outstanding contracts to produce a "blended" unisex rate. If your premium had been guaranteed and were suddenly increased, what would you do? Well, I'd sue or cancel my policy, depending on how much money I had to fight the court case. How much money do women who already barely make enough to buy peanut butter and blue jeans have to fight a court case? Again, who benefits - not the women who need the insurance coverage. How does this bill help those women? How does this bill cure the "disease"?

The "disease", again, is the need for more pensions for all, and better vesting and participation for women in particular. The longer vesting and participation periods currently in pension plans more severely impact women because of their shorter working careers and their more frequent work breaks to rear families. Earlier vesting and participation periods would make pension plans more portable, enabling the employee to take her or his pension benefits along when she or he changes jobs - an increasing need in a mobile work force, especially when work breaks are not voluntary - for men or for women.

In summary, although this bill's intent is constructive and laudable, its impact is destructive and implausible. Instead of addressing the real need: -

- . more pensions for all
- . earlier vesting and participation hence
 - .. more women actually earning pension benefits on their own
 - .. better portability for all for a more mobile work force

Its impact is

- . if applicable only to future contracts
 - .. higher prices
 - ... for many women for auto insurance ranging from 18-66%
 - ... for all women for life insurance ranging from 15-25%
 - ... especially negatively impacting the single woman who is sole support of herself and her dependents
 - 40% of all working women are in this category
 - 58% of all working minority women are in this category
 - .. no offset to these higher prices for a majority of women since
 - ... health benefits are generally already provided by the employer at the same rates for men and women.
 - ... a high proportion (95% is stated in the Congressional Record introducing this bill) already have equal monthly pension benefits
- . If additionally required to apply to future benefits and/or premiums for all contracts in force
 - .. insolvency or impairment of solvency of many life insurance companies
 - .. or increased premiums or decreased benefits for contracts whose premiums and benefits are guaranteed by insurance companies
 - .. increased prices for all because of costs of implementation and other companies' insolvencies which must be borne by solvent companies

In addition, the requirements of equal monthly pension benefits (for the small proportion not now receiving them - 5% according to the Congressional Record introducing this bill) would have additional impacts.

- . if required for only future contracts would
 - .. reduce some pensions because of increased costs, especially those of smaller employers
 - .. eliminate some pension plans, especially those of smaller employers
 - .. eliminate valuable lifetime options in some pension plans
- . if required for all contracts in force would
 - .. reduce some pensions even further because of additional increased costs
 - .. eliminate even more pension plans
 - .. possibly further impair the Pension Benefit Guaranty Corporation's solvency
 - .. increase funding requirements for states and municipalities' pension plans and hence would increase state and local taxes to provide this funding
 - ... \$10 million per year estimated for the State of Connecticut - 90% of these increased benefits will go to men
 - ... \$2 billion (including some back payments) for New York City and state plans

At a maximum, this bill should be modified to address its initial and major purpose - that of providing equal monthly pension benefits to the small proportion of women who don't now have these benefits. When done on a future basis it still has negative impacts as outlined above, but these impacts are accomplishable without the devastating impacts that elimination of cost-based pricing would have on the future of insurance customer prices .

Don't kill a fly with a shot gun.

Do find a way to encourage rather than discourage private pension plans.

Do something that actually benefits women - a majority of women. Rather than something that only looks like it benefits women.

Doing something that only looks like it benefits women is the worst and most common form of sex discrimination we have in the nation today.

FOOTNOTES

- 1) Statement of James M. Hacking, Assistant Legislative Counsel, American Association of Retired Persons before the Committee on Commerce, Science and Transportation, United States Senate on S.2204 on 15 July 1982.
- 2) President's Commission on Pension Policy.
- 3) Statement of Dr. Quincalee Brown, Executive Director, American Association of University Women before the Committee on Commerce, Science and Transportation, United States Senate on S.2204, on 15 July 1982.
- 4) Economic Responsibilities of Working Women, U.S. Department of Labor, September 1979.
- 5) Statement of Dr. Mary W. Gray, Womens' Equity Action League before the Committee on Commerce, Science and Transportation, United States Senate on S.2204, on 15 July 1982.
- 6) Statement by Estelle Ramey, in "Ah, Yes, it's Survival of the Fittest", Milwaukee Journal, March 20, 1981.

MARCH 19, 1983

HB 358 - Sen B&I

Mr. Chairman, members of the Committee, I am Elmer Hausken, Lobbyist for the Montana Assn Of Life Underwriters. My Assn is opposed to HB 358 because we feel it does not provide the women of Montana with the lowest cost Life Insurance. The intent seems constructive and laudable, but, the solution is too simple and simplistic.

Life insurance is marketed on a competitive cost basis and in the case of female lives costs less to insure. A statement for the bill infers women pay more than men. How naive. The case used for illustration was sold in only three instances in 1982 and it is not really a regular Life Insurance contract. In all cases women live longer.

The genetic difference shows before children are born. There are 150 baby boys conceived for every 100 baby girls, but, a 20-25% higher mortality prior to birth, prior to any socio-economic impact produces only 106 baby boys actually born for every 100 baby girls. 85% of all babies born with genetic defects are male and throughout life females continue to outlive males as is the case with all mammals.

Pension plans would be affected some, but nearly all pension plans for women are purchased by employers or the female is the co-recipient of her husbands plan benefits. What would be worse is the increase in cost that would put private pensions further out of reach for women. Elderly single women comprise 61 % of all individuals age 65 and over. Of the elderly poor 72% are women.

Over 50% of all women are employed or are currently seeking jobs. 17% of all American families are single parent families headed by a woman. Nearly 2/3 of the women in the labor force are there to help support their families. They should all have the opportunity to purchase Life Insurance as economically as possible.

STATEMENT OF GLEN L. DRAKE
IN OPPOSITION TO H.B. 358 IN BEHALF
OF THE AMERICAN INSURANCE ASSOCIATION
BEFORE THE SENATE COMMITTEE ON BUSINESS AND INDUSTRY

You have been bombarded with facts concerning the pros and cons of the underwriting statistics. I will try to avoid too much duplication but, instead, want to talk of the theory behind this type of legislation.

Proponents of the bill allege that there is something inherently evil or immoral in considering sex or marital status in underwriting decisions.

I submit that it would be immoral and wrong not to consider these items at this time. Sex is only one of the criteria used in creating underwriting classifications. In auto insurance, other tools include experience, miles driven, age, driving locale, education, and trade are also used. However, sex has proven to be one of the most reliable criteria. To mandate its nonuse will cause other underwriting groupings to be created on less reliable facts, thus causing some persons to pay less and some more than they would if properly grouped. This is wrong and immoral.

The most onerous concept of the bill, however, is the concept that the legislature should, by legislative decree, declare that some facts are not facts. As an example, it is an undisputed fact that as a class:

- (1) Women have greater life expectancy than men; and
- (2) Young, single women have fewer and less severe auto accidents than young, single men of the same age group.

To legislate that facts like these cannot be considered in underwriting would be comparable to edicts from the dark ages. It would be an authoritarian attempt to hide and distort truth. That is immoral and wrong. When experience changes so that those facts are no longer relevant, then these criteria will no longer be needed or used.

The industry recognizes that there have been and still are problems concerning insurance underwriting and sex as an underwriting criterion. The industry has been and now is working to find answers to the problems.

In closing, please find four attached exhibits.

Exhibit A - A copy of a semi-annual premium schedule from a life insurance solicitation made by the University of Montana Alumni Association which shows life insurance rates for women to be from 25% to almost 50% less than men in the same age group. If H.B. 358 should become law, all that must change and women will pay the same rate as men or have their benefits lowered.

Exhibit B - A page from "accident facts" published by the National Safety Counsel (1981 edition) which shows, among other things, that for the same number of miles driven in 1980, women were involved in less than one-half as many fatal accidents as men. Present liability insurance costs properly reflect that fact by charging women as a class less than men.

Exhibit C - A discussion of the problems raised by H.B. 358 published in Fortune magazine, February 1983 issue.

Exhibit D - The American Insurance Association position on Auto Insurance Classification.

I trust that you will consider these facts and not bury them by legislative fiat. If and when other more reliable bases for underwriting have been found, the industry on its own will discontinue use of the present criteria. Until that time, fairness dictates the most reliable criteria should be used. Vote against H.B. 358 and support H.J.R. 29 so that proper reflection can be made on this very important issue.



There were about 146,000,000 drivers in the nation in 1980. The approximate number in each age group is shown in the table below, along with each group's accident experience for the year. The figures in the last two columns at the right indicate the frequency of accident involvement; the higher the number, the higher the involvement in each age group.

Age of Drivers—Total Number and Number in Accidents, 1980

Age Group	All Drivers		Drivers in Accidents				Per No. of Drivers	
	Number	%	Fatal		All	%	Fatal*	All**
			Number	%				
Total	146,000,000	100.0%	68,300	100.0%	29,800,000	100.0%	47	20
Under 20	14,300,000	9.8	10,800	15.8	5,000,000	16.8	76	35
20-24	17,400,000	11.9	14,200	20.8	5,900,000	19.8	92	34
25-29	17,500,000	12.0	9,700	14.2	4,400,000	14.8	55	25
30-34	15,300,000	10.5	8,300	12.2	3,500,000	11.7	49	21
35-39	13,900,000	9.5	4,800	7.0	2,200,000	7.4	35	16
40-44	11,700,000	8.0	4,700	6.9	1,900,000	6.4	30	14
45-49	11,400,000	7.8	3,800	5.5	1,500,000	5.1	23	11
50-54	11,700,000	8.0	2,900	4.2	1,300,000	4.4	19	9
55-59	10,100,000	6.9	2,600	3.8	1,000,000	3.3	13	6
60-64	7,500,000	5.2	2,200	3.3	500,000	1.7	6	3
65-69	6,400,000	4.4	1,700	2.5	500,000	1.6	5	2
70-74	4,400,000	3.0	1,200	1.8	300,000	1.0	2	1
75 and over	2,900,000	2.0	1,400	2.0	500,000	1.7	48	17

Source: Drivers in accidents based on reports from 18 state traffic authorities. Number of drivers by age are National Safety Council estimates based on reports from state traffic authorities and research groups.
*Drivers in Fatal Accidents per 100,000 drivers in each age group.
**Drivers in All Accidents per 100 drivers in each age group.

Sex of driver



Of the estimated 146,000,000 drivers in 1980, about 77,700,000 are males and 68,300,000 are females. Males are involved in more accidents than are females as shown in the table below. The difference is due at least partly to differences in the amount of driving done by the members of each sex and to differences in time, place, and circumstance of the driving.

Sex of Driver Involved in Accidents, 1965-1980

Year	Drivers in Fatal Accidents				Drivers in All Accidents			
	Male		Female		Male		Female	
	No.	Rate†	No.	Rate†	No.	Rate†	No.	Rate†
1965	50,300	78	8,900	37	13,200,000	282	5,300,000	221
1966	54,600	81	9,700	37	12,500,000	275	5,700,000	218
1967	54,600	80	9,900	35	13,500,000	272	5,300,000	205
1968	59,500	84	10,500	35	19,600,000	275	6,400,000	211
1969	59,900	80	10,900	33	20,000,000	269	6,300,000	209
1970	57,800	75	10,700	31	20,500,000	255	7,200,000	209
1971	55,700	70	11,100	30	20,900,000	255	7,400,000	199
1972	59,000	68	11,900	28	21,000,000	243	8,100,000	201
1973	55,900	63	11,400	27	20,200,000	227	7,900,000	189
1974	48,000	55	9,800	24	17,600,000	205	7,300,000	177
1975	46,500	52	9,600	22	13,100,000	212	6,400,000	195
1976	48,100	51	10,900	24	19,600,000	206	8,800,000	191
1977	51,900	53	11,800	25	20,600,000	209	9,300,000	193
1978	51,500	50	15,500	30	21,700,000	209	9,800,000	192
1979	52,700	52	12,500	25	20,600,000	202	9,100,000	180
1980	56,100	56	12,200	24	20,100,000	200	9,700,000	192

Source: Accidents and Drivers—National Safety Council estimates based on reports from state motor-vehicle departments and Federal Highway Administration. Mileage—National Safety Council estimates based on survey data from National Family Opinion, Inc.
†Rate of drivers in fatal accidents per 1,000,000,000 miles driven.
‡Rate of drivers in all accidents per 10,000,000 miles driven.

Over half of all pedestrian deaths and injuries happen when these persons cross enter streets. Thirty per cent of all actions occur between intersections, but the proportion varies for persons of different ages. These and other actions are shown in the table below.

Deaths and Injuries of Pedestrians by Age and Action†, 1979

Actions	All Ages		Age of Persons Killed and Injured								65 0
	No.	%	Under	5-9	10-14	15-19	20-24	25-44	45-64		
			5								
Total Pedestrians	129,600	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Crossing or entering	71,300	55.0	62.3	68.0	61.3	43.5	46.3	43.6	56.5	6	6
—at intersection	31,500	24.5	9.9	19.6	25.4	19.9	23.4	22.9	33.0	4	4
—between intersection	39,800	30.5	52.5	48.4	35.9	23.6	22.9	20.7	23.5	2	2
Walking in roadway	9,700	7.5	3.1	3.1	8.1	12.9	10.2	8.1	7.2	1	1
—with traffic	6,900	5.3	1.7	2.0	5.8	9.9	7.7	5.6	4.9	0	0
—against traffic	2,800	2.2	1.4	1.1	2.3	3.0	2.5	2.5	2.3	1	1
Standing in roadway	3,000	2.3	0.8	0.6	1.2	3.7	3.6	3.2	2.6	0	0
Pushing or working on vehicle in roadway	1,400	1.1	0.1	0.1	0.3	1.6	2.2	2.0	1.3	0	0
Other working in roadway	1,700	1.3	1.6	1.0	0.8	0.9	1.7	2.0	1.7	0	0
Playing in roadway	2,700	2.1	6.3	5.1	4.6	1.2	0.5	0.1	0.1	0	0
Other in roadway	27,200	21.0	21.5	19.8	18.0	22.1	21.5	26.7	19.2	0	0
Not in roadway	12,600	9.7	4.3	2.3	5.7	14.1	14.0	14.3	11.4	0	0

Source: Based on 1979 reports of deaths and injuries from 16 state traffic authorities, number of death injuries are 1980 estimates.

†Totals not comparable to previous years due to classification changes.

Pedestrian accidents by hour of day and day of week

Pedestrian accidents vary importantly by hour of day and day of week according to 1980 data from the New York Department of Motor Vehicles. These accidents are likely to occur during the early afternoon and early evening hours; almost half pedestrian accidents occur between 1:00 p.m. and 7:00 p.m. Thursday, Friday and day account for almost half of the pedestrian accidents with Friday having the proportion. The thirty-hour period from 1:00 p.m. Thursday to 7:00 p.m. Friday account for almost 24 per cent of the pedestrian accidents.

The table below shows the percentage distribution of pedestrian accidents by week and hour of day.

Pedestrian Accidents by Hour of Day and Day of Week, New York, 1980

Hour of Day	Total	Day of Week					
		Mon.	Tues.	Wed.	Thurs.	Fri.	Sat.
Total	100.0%	14.1%	14.7%	13.8%	14.9%	17.6%	14.9%
1:00 a.m.-4:00 a.m.	4.3%	0.2	0.3	0.3	0.4	0.5	1.5
4:00 a.m.-7:00 a.m.	2.1%	0.2	0.2	0.2	0.2	0.3	0.5
7:00 a.m.-10:00 a.m.	9.7%	1.6	1.8	1.8	1.7	1.8	0.6
10:00 a.m.-1:00 p.m.	12.9%	2.1	2.0	1.7	1.9	2.2	1.9
1:00 p.m.-4:00 p.m.	21.5%	3.0	3.3	3.4	3.6	3.5	2.8
4:00 p.m.-7:00 p.m.	25.2%	3.8	4.1	3.5	3.9	4.5	3.2
7:00 p.m.-10:00 p.m.	15.9%	2.2	2.1	2.0	2.2	3.1	2.7
10:00 p.m.-1:00 a.m.	8.4%	1.0	0.9	0.9	1.0	1.7	1.7

Source: New York Department of Motor Vehicles.

Premiums are based on insured's attained age on effective and policy anniversary dates.
(As the member moves from one age to another, the cost changes accordingly)

MALE

Benefit	Under 25	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-64	65-69*
\$ 10,000	\$ 8.00	\$ 8.50	\$ 9.00	\$12.50	\$20.00	\$32.50	\$ 52.00	\$ 78.00	\$110.00	\$176.00
20,000	16.00	17.00	18.00	25.00	40.00	65.00	104.00	156.00	220.00	352.00
30,000	24.00	25.50	27.00	37.50	60.00	97.50	156.00	234.00	330.00	520.00
40,000	32.00	34.00	36.00	50.00	80.00	130.00	208.00	312.00	440.00	704.00
50,000	40.00	42.50	45.00	62.50	100.00	162.50	260.00	390.00	550.00	880.00
100,000	80.00	85.00	90.00	125.00	200.00	325.00	520.00	780.00	1100.00	1720.00
150,000	120.00	127.50	135.00	187.50	300.00	487.50	780.00	1170.00	1650.00	2640.00
200,000	160.00	170.00	180.00	250.00	400.00	650.00	1040.00	1560.00	2200.00	3520.00

*Coverage will terminate at age 70 based on member's age.

FEMALE

(if dependent of member, use member's age to compute spouse premium)

Benefit	Under 25	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-64	65-69*
\$ 10,000	\$ 6.00	\$ 6.00	\$ 7.00	\$10.50	\$16.50	\$22.50	\$ 31.00	\$ 54.00	\$ 60.00	\$ 90.00
20,000	12.00	12.00	14.00	21.00	33.00	45.00	62.00	108.00	120.00	180.00
30,000	18.00	18.00	21.00	31.50	49.50	67.50	93.00	162.00	180.00	270.00
40,000	24.00	24.00	28.00	42.00	66.00	90.00	124.00	216.00	240.00	360.00
50,000	30.00	30.00	35.00	52.50	82.50	112.50	155.00	270.00	300.00	450.00
100,000	60.00	60.00	70.00	105.00	165.00	225.00	310.00	540.00	600.00	900.00
150,000	90.00	90.00	105.00	157.50	247.50	337.50	465.00	810.00	900.00	1250.00
200,000	120.00	120.00	140.00	210.00	330.00	450.00	620.00	1080.00	1200.00	1800.00

*Coverage will terminate at age 70 based on member's age.

CHILDREN

Coverage: \$ 10.00 for child(ren)
\$5,000.00 (6 months to age 21, to age 23 if full-time student)
\$2,000.00 (14 days to 6 months)

PLEASE FIGURE YOUR PREMIUM HERE:

	Amount of Coverage	Premium
Member	\$ _____	\$ _____
Spouse	\$ _____	\$ _____
Children	\$ _____	\$ _____
Total	\$ _____	\$ _____

HOW TO APPLY

1. Complete the application and check the appropriate box to indicate your semi-annual premium for the plan you have chosen.
2. Please use the box provided to calculate your premium.
3. **SEND NO MONEY NOW, YOU WILL BE BILLED AT A LATER DATE.**
4. Date and sign your application form and send it to the Administrator's office in the envelope provided:

John P. Pearl and Associates, Ltd.

Suite 204

1750 S.W. Skyline Blvd.

Portland, Oregon 97221

ISSUES/DANIEL SELIGMAN

INSURANCE AND THE PRICE OF SEX

■ One of the strangest issues you will have to make up your mind about this year is an entry that's usually labeled sex discrimination in insurance. At the moment, the moral high ground seems to be controlled by those who believe there's a big, big problem out there and that government must provide a solution. However, a case can be made for viewing the issue as a big, big nonproblem.

This is definitely not the view of Republican Senator Bob Packwood of Oregon, who is pushing a bill to end what he proclaims to be unconscionable discrimination by the insurance industry against women. His bill would also prevent the industry from discriminating on the basis of race, color, religion, or national origin, but since hardly anybody contends there is discrimination in these areas, virtually all the testimony in the Senate Commerce Committee has concerned sex. Packwood's bill was reported out of committee last fall but Congress never got to it in the hectic lame duck session, and so the Senator is starting over again this year. A similar bill has been introduced in the House by John Dingell of Michigan.

Also upset about sex discrimination in insurance is Solicitor General Rex E. Lee, who recently filed a brief attacking "sex-based actuarial tables," thereby lining up the Reagan Administration with the women's movement and numerous members of the judiciary who also don't like the tables. The tables, though, are innocent. They just reflect the reality that in certain matters highly relevant to insurance, men and women are, statistically speaking, very different. The tables show, for example, that on average women live longer than men; at age 60 a woman's life expectancy in the U.S. is 22.1 years, a man's only 17.1 years. Accordingly, insurers price insurance differently for men and women.

These differences in prices have been at issue in several major court cases in recent years. In 1978 the U.S. Supreme Court held that the Department of Water and Power in

Los Angeles violated the 1964 Civil Rights Act by requiring women to make larger contributions to a pension plan to get the same monthly benefits men got. A related case out of Arizona will be coming before the Supreme Court this year. The issue in that one is whether women must settle for smaller monthly benefit checks from a deferred-compensation plan though women and men had made equal contributions to it over the years.

IT IS PERHAPS not surprising that the American Association of University Women, the National Women's Political Caucus, the Coalition of Labor Union Women, and other "movement" organizations are backing such lawsuits, but there are some anomalies in the movement's support of the Packwood bill. One anomaly is discernible in that chart on the facing page, which makes it clear that the insurance industry's present systems of sex classification *favor* women much of the time.

Indeed they may favor women on balance. Testifying before Packwood last summer, Mavis A. Walters, a member of the Committee on Risk Classification of the American Academy of Actuaries, stated that the Senator's bill would have these effects: "Women would pay more for life insurance; men would pay less. Women would pay less for annuities; men would pay more. Women would pay more for auto insurance; men would pay less. Women would pay less for disability insurance and men would pay more." Taking one thing with another, she added, "our study has found that women

as a group will pay more for insurance if this bill is passed." George K. Bernstein, a witness representing the American Insurance Association at the hearings, put women's additional cost for automobile insurance alone at \$700 million a year. Asking himself why the movement was nevertheless supporting the bill, Bernstein said the only explanation he could think of was "ideology."

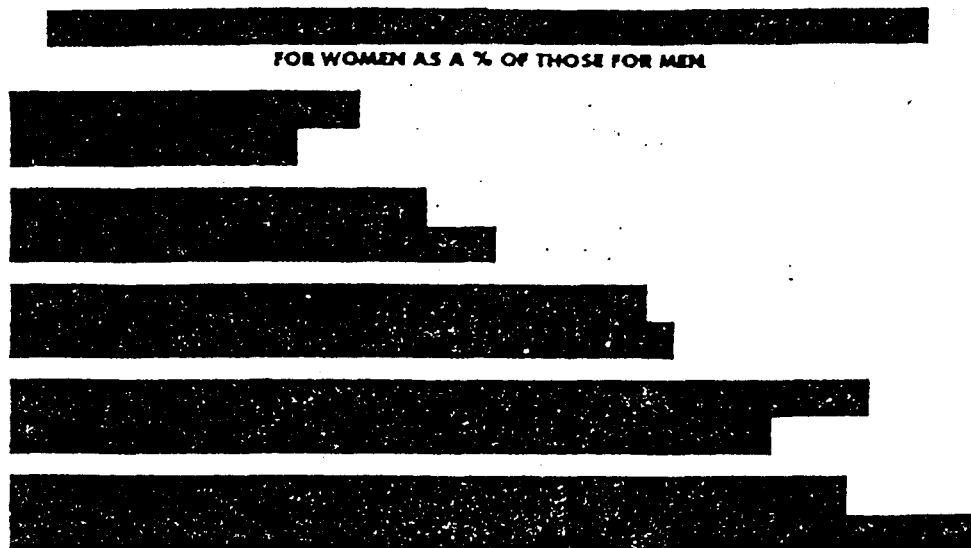
It's hard to see why anybody without an ideological slant should view the insurance industry's sex-based distinctions as discriminatory. If young women have fewer automobile accidents than young men—which they do—why shouldn't the women get a better rate? If the industry's experience shows—as it does—that women spend more time in the hospital than men, why shouldn't women pay more for health policies? If female mortality rates are lower than those for males—which they are, at every age from day one to year 100—why shouldn't females pay less for life insurance? And more for pensions and annuities? There is broad agreement that the industry's pricing reflects not bigotry but actual experience. So why should anybody view it as discriminatory?

Those inclined to the big, big problem view of the case have approached these questions in several ways. Some of them, including Packwood, see antidiscrimination laws in insurance as a natural follow-on to the laws that have successively banned sex discrimination in employment, housing, credit, and other areas. Having long since forgotten that the point of those other laws was to combat inaccurate and prejudicial stereotyping, they have now arrived at a mental way

station where discrimination is defined as any difference at all in the treatment of the sexes. In an effort to sustain this view, witnesses before the Packwood committee kept saying that it's unfair to discriminate on the basis of sex because sex is an immutable human characteristic; like race and color, they said, sex is something nobody can change (a slightly debatable point these days). But none of the witnesses ever explained why immutability should be a factor in actuarial decisions. People also can't control their ge-

action front. In the course of arguing against quotas and other kinds of race-conscious preference, the Administration keeps saying that we have to get away from group rights and concentrate on individual rights. This is certainly a logical and commendable rule to apply to employment cases, but extending the rule to insurance just seems mindless. Insurance *requires* group classifications. It needs the law of large numbers to work with. Though nobody knows when a particular person will die, the law of large numbers en-

The insurance industry is naturally quite upset about the trend in the courts and the possibility of having to cope with the Packwood standards. The worst case for the industry would be a law, or a court decision, that required existing as well as future policies to conform to unisex standards in pricing. (Packwood apparently wants to cover existing policies, but he sounds as though the issue is negotiable.) By some industry estimates, the worst-case scenario would cost several billion for pensions alone to



Sources: American Council of Life Insurance, National Association of Insurance Commissioners, New York State Department of Insurance

netic heritage. If you're born with some life-threatening genetic defect, should you get insurance at the same price as someone who's in normal health?

HOWEVER, THE ULTIMATE confusion about sex-based discrimination resides in an argument that seems to be sweeping the country these days. It's the argument that prevailed in those California and Arizona cases and that has now been embraced by Solicitor General Lee. The argument proceeds as follows. We agree that women as a class live longer than men. However, we do not agree that an individual woman should be treated as a member of the class when it comes to writing insurance; she may, after all, die tomorrow, while a man her age may live for decades. Indeed, treating people as members of a class, rather than as individuals, is precisely what we mean by discrimination—and is precisely what was forbidden by the Civil Rights Act, at least with respect to classes involving race, color, religion, national origin, or sex.

In buying this line of argument, the Reagan Administration has plainly been influenced by its encounters on the affirmative-

Equal They're Not

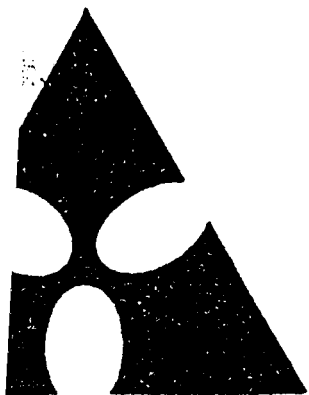
Sex is here to stay—at least in the facts-of-life statistics that underlie differences in insurance prices for men and women. Ranged against the efforts to require unisex pricing are some stubborn realities. One is that men and women have different life expectancies at all ages, which implies different costs for carriers offering life and annuity policies. Another is that men and women behave differently, which affects the costs of auto, major medical, and disability insurance. (The chart data for auto insurance pertain to drivers under 25. The data for annuities pertain to age 65. For the other categories, the age is 45.)

ables us to predict with considerable accuracy when an average member of a group will die. In agreeing that women as a group live longer, but insisting that it's unfair to apply this fact to individual cases, the courts and the Administration have stepped into a huge intellectual bog. Presumably we are all agreed that the insurance industry is entitled to classify people by age. But the argument that we must view people as individuals, and not as members of a class, could also be applied to age classifications. After all, some young people die early and some old people just get a lot older.

bring benefits for women up to male levels.

Packwood himself thinks the true cost for additional pension benefits would be much lower, probably more like \$500 million, "a relatively minor amount," he says, when measured against the industry's assets. He also likes to speculate that the industry might go unisex without his bill. "If one or two of the major companies were to crack," he said hopefully the other day, "the rest would go like a dam with a hole in it."

■ Insurance executives are divided on the effect unisex pricing would have on the terms and availability of policies offered in the future. Coy Eklund, the chairman of Equitable Life Assurance and a consistent out-front supporter of the women's movement, says he "could accept" a public policy decision to go unisex. Other students of the subject believe that, overall, insurance premiums would rise, and that pension plans for companies with predominantly female employees might be hard to get. Meanwhile, the possibility that most insurance people find most attractive is a different one—the possibility that at some point the courts and Congress might discover there's no problem. □



THE
AMERICAN
INSURANCE
ASSOCIATION
POSITION
ON...

AUTO INSURANCE CLASSIFICATION

AUTO INSURANCE CLASSIFICATION

Examination of the Issues

The way in which auto insurance companies determine the premiums individual policyholders pay has become widely discussed and often criticized.

Because controversy over auto insurance rate classifications affects all 137 million American motorists, the American Insurance Association, a trade association representing some 150 member companies, believes it essential that discussion and understanding of the issues be thorough.

The Association is aware that many of the auto insurance classification systems in use may be in need of change, at least in part, but that the principles that most systems use are sound.

"No one conversant with the insurance business
disputes the fact that the loss experience of

the various groups (of motorists) classified by age, sex, marital status and territory, bears out, on an objective and regulated basis, the propriety of those classifications."

"The argument is...not whether losses are being properly attributed, but whether, from a social point of view, certain groups of insureds should be relieved of the financial responsibility for their losses and whether other insureds should assume additional burdens."

Those are excerpts from the testimony at a New Jersey Insurance Department hearing in March 1979 of George K. Bernstein, an AIA consultant and lawyer specializing in insurance theory and its practical application in today's controversial insurance areas. They address the two principal parts of the auto insurance classification controversy:

1. the statistical evidence for the use of age, sex, marital status, and territory in determining auto insurance premiums, and
2. the reason those rating factors are being challenged.

Classifications and Competition

It was many years ago that insurance became a competitive business. Today, more than 900 auto insurance companies offer their products with wide variation in price. The auto insurance company which does not price its product competitively will soon find itself lacking the number of policyholders necessary for a successful operation or losing money.

It was competition, in fact, that led insurance companies to originate auto insurance rate classifications. They established prices, for the first time, that fit the average risk represented by groups of drivers. It has long been known that some motorists were more likely to be involved in

accidents than others and that they should, therefore, pay more for insurance than others. Factors surrounding the use of a car seemed to reflect with considerable accuracy the likelihood of a motorist having a claim. The most useful factors have been whether the car was used for business or pleasure; place of garaging; mileage driven; and the driver's age, sex, and marital status. Since, on the average, young male drivers have more claims than older female drivers, for example, it can be assumed that motorists in that group are also more likely to have a claim in the future, and so they pay more.

Testimony Before U.S. Senate

Auto insurance classification concepts were explained in a statement before a U.S. Senate subcommittee in January 1978 by the National Association of Insurance Commissioners, an organization of the state officials who regulate the business of insurance.

"Classifications are essential to the private competitive system since individual insurers rely on the ability to attract business by quoting an attractive price...

"Given the freedom to contract, it is natural for insurance companies to avoid or to price-up buyers who, in their judgment, offer a greater loss potential or risk than those who characterize the insurable class."

Driver classifications produce what we might call "economic fair pricing" of auto insurance. Each driver is assigned to a group with similar characteristics and pays a price for insurance based as closely as possible on the losses which past experience indicated will be produced by that group.

Economic fair pricing is also a device for identifying the true social cost of losses caused by various types of hazardous activities. Auto insurance rates are higher in urban areas because garaging and operation of automobiles in urban areas is riskier (wherever else they may be operated,

autos are always operated where they are garaged). Street congestion and crime make urban areas riskier.

What's Wrong With Discrimination?

Many critics of the present auto insurance classification systems charge insurers with "discrimination." This charge fails to make a distinction between unfair discrimination and the type of discrimination which is an integral part of insurance. Life insurance offers a familiar example of the kind of discrimination that is essential to pricing. Age as a rating factor in setting life insurance premiums is obvious and logical. A 21-year-old should pay much less for a one-year term life insurance policy than a 60-year-old. Auto insurance classifications discriminate among drivers on the basis of statistical evidence--evidence that makes such discrimination not only acceptable, but fair and logical.

No classification system will ever achieve perfection, but there is a large body of experience to support the use of age, sex, marital status, and geographical location in determining a person's auto insurance premiums.

Statistics Support Classes

Countrywide statistics compiled by the two leading statistical organizations to which auto insurance insurers report their experience, the Insurance Services Office (ISO) and the National Association of Independent Insurers (NAII), reflect experience on which driver classifications are based. These statistics in most any recent year demonstrate that some categories of young drivers are involved in nearly three times as many claims as adult drivers and cause more than three times the losses.

~~The same figures show that, while there are 119 claims for every 1,000~~
insured vehicles driven by adults who drove for pleasure only, there are nearly three times that, or 341 claims, for every 1,000 insured cars driven by unmarried males under 25 who are the owners or principal operators of the cars.

In the opinion of Mr. Bernstein: "

"Insureds will not countenance a ratemaking system that forces them to pay for exposure of other, disparate classes, and insurers will not put the assets of policyholders and stockholders at risk for premiums which are demonstrably inadequate."

The use of rating territories also is supported by statistical evidence. For example, a U.S. Department of Transportation study found that in 1974 there were 8 traffic fatalities per 1,000 miles on rural streets and roads, compared with nearly 24, or three times as many, fatalities in urban areas. In the same year, there were fewer than 1,300 rural property damage accidents per 1,000 miles of roads and streets, compared to more than 15,000--more than ten times as many--in urban areas.

If it is socially unacceptable to charge the young, unmarried, urban driver the high premiums dictated by that grouping's average experience, then how about an auto insurance pricing system in which the older, suburban or rural driver will help pay the premiums of the younger, urban driver?

We quote Mr. Bernstein:

"There is a vast difference between identifying inaccuracies in the current system and correcting them, and replacing the rating system with one which is admittedly based not on statistics but on a generalized desire to lower costs for certain insureds."

There is always room for improvement, and things can change, such as the habits of certain groups of drivers. For instance, the changing driving habits of women appear to be steadily narrowing the gap between the amount of driving done by women and by men. Should this trend continue, the same competition that led to insurance rate classifications in the first place may very well lead to the elimination of sex as a factor in auto insurance rate-making. If experience no longer supports use of a particular ratemaking

factor, it is likely to disappear without any regulatory or legislative action.

Favored by some critics of auto insurance ratemaking is a system that would base each motorist's premium on his or her own driving record. Carried to its extreme, this would mean determining the losses each driver would produce in the future and charging an appropriate premium. This could not be done, but, assuming it could, a driver producing \$10,000 in loss costs would pay a \$10,000 premium while a driver producing no loss costs would pay only a service fee to the company. This would amount to self-insurance and remove the need for either motorist to have any auto insurance at all.

But driving records are not altogether ignored under present rating plans. Most companies surcharge drivers whose records contain chargeable accidents and serious moving traffic violations--for a period of three years before renewal of the policy. These drivers have a greater loss potential for future accidents, according to statistical evidence.

But use of driving experience as a rating factor cannot easily be extended. Records indicate that the typical automobile will be involved in a property damage accident about once every 8 years and in a bodily injury accident about once every 15 years, but most motor vehicle records are either unavailable or unreliable beyond a three-year period. Also, it is difficult if not impossible, to check on motorists' records. Motorists can change auto insurers after an accident; out-of-state accidents are not always reported to a motorists' home state; state motor vehicle authorities do not get reports on all accidents, and privacy considerations can be a problem for insurance companies needing access to driving records.

Upheaval in Marketplace

The elimination of all classification factors would, of course, result in everyone paying the same premium. As a car's principal operator, an average young man who produces more than three times the losses of an average married older man would pay the same premium.

This would dislocate the marketplace. Consider the analogy of an

appliance dealer who is told that the prices of all his television sets--black-and-white or color, large or small--would be \$300. The dealer would push only small, black-and-white sets, which cost him \$50 each, and hold down sales of big-screen color.

An auto insurance market in which everyone was charged the same premium would find low-risk drivers wooed by every company writing auto insurance in their states, and high-risk drivers dumped into whatever involuntary market was in effect.

Another criticism of the current classifications is that there are some good, low-risk drivers in the lowest rated categories. True, but try to fix it. Since relatively few drivers produce losses at all (when compared to the total number of drivers) there will always be a large number of drivers in any classification who do not produce losses. Even if every driver is in the same rating classification, there still will be a large majority of drivers who produce no losses.

Independent Studies

The Stanford Research Institute issued a report in May 1976 on a study of the risk assessment process (conducted for the American Insurance Association, Alliance of American Insurers, Insurance Services Office, National Association of Independent Insurers, and State Farm Mutual Automobile Insurance Company) that concluded:

"While room for improvement exists the precision of current risk assessment processes may in fact be relatively near the practical limit imposed by current scientific knowledge and economic factors. Government attempts to control the way insurance companies measure risk are both ineffective and harmful to consumers."

"Restrictions on the risk assessment process lead to market restrictions, subsidies

among consumers, and availability problems for some groups of consumers. We therefore conclude that risk assessment should not be restricted and that insurers should be free to make full use of classification information."

Here is one of the conclusions reached by the Florida Insurance Research Center of the University of Florida's College of Business in "An Evaluation of Risk Classification Systems in Automobile Insurance" conducted for the Florida Department of Insurance:

"On the basis of the material reviewed for this study, age, sex, and marital status achieve a higher predictive accuracy in comparison to the other variables of driver experience and driver record. Moreover, when all variables are considered together, the predictive ability is further increased."

In November 1978 a Louisiana district court judge affirmed the use of age and sex as criteria in establishing auto insurance rates.

Said the court in its conclusion:

"Age and sex have been used in insurance rating for some time in Louisiana and virtually everywhere else as valid rating criteria. Markets have been generally maintained by matching premiums to expected losses in insurance. These criteria meet the standards of definition, practicality and homogeneity.

"The criteria are rationally related to a legitimate state objective and although they create

a degree of discrimination to a very isolated segment of those classes, they are not unfairly discriminatory and shall be allowed to continue."

Expense Provision in Premiums

Another target of critics of auto insurance rating has been that portion of the premium dollar allocated to insurance company expenses.. Roughly 30 cents of every dollar of auto insurance premium goes to pay agent commissions, general administrative costs and state premium taxes. The criticism focuses on the fact that the policyholder who pays a \$200 premium is paying \$60 for expenses, while the policyholder who pays a \$1,000 premium is paying \$300 for expenses. Why, ask the critics, should one pay five times as much for expenses as the other? They contend that each premium should include a set dollar amount for expenses regardless of the risk involved.

A number of individual companies and the Insurance Services Office have begun changing the way in which the expense portion of the premium dollar is decided. However, insurers generally are not convinced that a set fee for expenses is the answer. Expenses are not at a level all over the country. Expense of operating in New York City is far higher than the expense of operating in a rural area of the Midwest, for example.

Some expenses do vary in relation to claim costs. Others (such as policy issuance) are near equal for each policy. Any change should be designed to produce essentially the same number of expense dollars, since the amount now being collected closely matches actual total expenses.

It seems appropriate to close with this observation from Mr. Bernstein:

"Insurance may not be an exact science, but neither can it survive if it is transformed into a mechanism for the reallocation of wealth. It is a system designed to trans-

fer risk and spread loss and if it is to continue, it must operate under standards that lend themselves to risk assessment and reasonable fair pricing."

-30-

MARCH 19, 1983
HB 358

I am opposed to House Bill 358, because it will create higher prices for Life Insurance and car insurance for women.

Increasing costs for Life Insurance will in many cases result in no Life Insurance being purchased by young single mothers trying to raise a family. This results when that person needs protection to assure her children of decent survival and care if she dies prematurely.

Please do not raise costs more than they are now.

If the proposed averaging of premiums happens health insurance rates for my company will decrease for younger women but increase ~~dramatically~~ for older women. I feel this will create a tremendous burden for those clients of mine who are elderly females ^{which} ~~into~~ we know actuarially live longer than men and will have to pay these higher costs. Disability insurance - same risk same cost. Male Homemaker pays same as female Homemaker.

REGARDING HOUSE BILL NO. 358

To: The Senate Business and Industry Committee
From: Independent Insurance Agents Association of Montana
Date: March 19, 1983
Re: House Bill No. 358

The Independent Insurance Agents Association of Montana hereby indicates its opposition to House Bill No. 358. Our concern with this bill is the far reaching effects to the Montana Insurance Consumer. We respectfully submit the following information we have been able to gather regarding the issue of sex and marital status in insurance classifications:

The Insurance Services Office, (ISO), in a report to the National Association of Insurance Commissioners, (NAIC), Rating Procedures Task Force in 1978, stated: "we wish to point out during the past year, one of ISO's highest priorities has been the search for new rating variables which are practical and which could replace sex and marital status, without causing severe economic dislocations in the marketplace. Quite frankly, after a year's labor we, as well as many individual insurers, have been unsuccessful in this effort but have committed our resources to continue to search aggressively for these variables."

"Severe market dislocation would occur in private passenger automobile insurance should any of the rating criteria now in use be eliminated without adequate substitutes. Such dislocation would, of course, create future problems for both the industry and the regulators. ISO has calculated the effect of eliminating sex and marital status from our classification plan without substitutes. This elimination would result in approximately 9% of our insureds receiving reductions in premium of up to 39% with an overall average

of 25% for this group of insureds. On the other hand approximately 81% would receive increases up to 32% for an overall average 6% increase.

Mr. George K. Bernstein, a consultant for the American Insurance Association, (AIA), a lawyer specializing in insurance theory and its practical application, stated:

"Insurance may not be an exact science, but neither can it survive if it is transformed into a mechanism for the reallocation of wealth. It is a system designed to transfer risk and spread loss and if it is to continue, it must operate under standards that lend themselves to risk assessment and reasonable fair pricing."

The following is a statement given to the U.S. Senate subcommittee in January of 1978 by the National Association of Insurance Commissioners:

"Classifications are essential to the private competitive system since individual insurers rely on the ability to attract business by quoting an attractive price...

"Given the freedom to contract, it is natural for insurance companies to avoid or to price-up buyers who, in their judgement, offer a greater loss potential or risk than those who characterize the insurable class."

The following point is made in an article on GOVERNMENT AND INDUSTRY AFFAIRS from the U.S.F. & G. Insurance Company entitled, SUBSIDY CREATES REVERSE DISCRIMINATION:

In a freely competitive system, rates will be higher when the risk is perceived to be higher and lower when the risk is low. This form of "discrimination" is normal and necessary insurance business practice. Eliminating the ability to maintain such dis-

inctions creates a subsidy, not insurance. Sanctioning a subsidy means practicing "reverse discrimination," or denying those at lowest risk the benefit of their group's superior experience. Governments may be appropriate creators of subsidies; private industry is not.

We will not reiterate here the numerous justifications for sex-based distinctions in insurance. These arguments have been ably made by actuarial experts and industry spokesmen. Even critics do not dispute these facts; they do question, however, the industry's conclusion that is therefore "fair" to use these distinctions in pricing."

Here is one of the conclusions reached by the Florida Insurance Research Center of the University of Florida's College of Business in "An Evaluation of Risk Classification System in Automobile Insurance" conducted for the Florida Department of Insurance:

"On the basis of the material reviewed for this study, age, sex, and marital status achieve a higher predictive accuracy in comparison to the other variables of driver experience and driver record. Moreover, when all variables are considered together, the predictive ability is further increased."

Another independent study was completed by the Stanford Research Institute in May of 1976 on a study of risk assessment processes. This study was conducted for the American Insurance Association and others, that concluded:

"While room for improvement exists, the precision of current risk assessment processes may in fact be relatively near the practical limit imposed by current scientific knowledge and economic

factors. Government attempts to control the way insurance companies measure risk are both ineffective and harmful to the consumers."

"Restrictions on the risk assessment process lead to market restrictions, subsidies among consumers, and availability problems for some groups of consumers. We therefore conclude that risk assessment should not be restricted and that insurers should be free to make full use of classification information."

Any of the reports referred to in this statement may be obtained in their complete form from our office here in Helena.

In the interest of the Montana Insurance Consumer, we urge that the Senate Business and Industry give careful consideration to the effect of this legislation to the Montana insurance consumer.

Respectfully submitted by:

Roger McGlenn Independent Insurance Agents' Association of Montana

REBUTTAL TO: "AN EQUAL PIECE OF THE ROCK FOR WOMEN"

Any discussion of equality understandably generates strong reactions, but it is important not to lose sight of the underlying facts involved. Women live longer than men. Young women drivers have significantly fewer accidents than men their age. Women have an appreciably higher rate of hospital use than men at most insuring ages. Requiring insurance premiums to be the same for men and women won't change the fact that the costs of providing benefits are different. To provide a full picture of these issues, we present the following rebuttal to the Women's Lobbyist Fund "Fact Sheet".

1. Assertion:

The "Fact Sheet" prominently displays a table purporting to show how much more than men the "typical" woman pays for all kinds of insurance over a lifetime. The figures in the table are selectively repeated on the second page.

Fact:

The figures in the table, which were attributed to the National Organization of Women, do not speak for very many women. The table does not reflect the fact that the great majority of coverage for health insurance and pensions comes from a woman's own employment or that of her husband. Most employed women are covered by group life and medical (including disability) insurance purchased by their employers, many of whom pay the entire cost. Such plans written by insurance companies cover nearly 100,000,000 people. If women contribute to the cost, their rates are the same as for men.

Employed women also participate widely in group retirement plans in which more than 45,000,000 people participate, and again, employers often pay the entire cost. If there are

employee contributions they are the same for men and women.

The most typical situation for either men or women is individually-purchased life insurance, individually-purchased automobile insurance, individually-purchased homeowners insurance, employer-provided life and health insurance and employer-provided pensions. Therefore, the financial impact of current pricing practices on the typical woman is far different from the impression given by the table.

The table obscures the fact that women pay much less for individual life insurance policies than men do. The "life insurance and pension" policy shown carries a premium of over \$4,000 per year and is bought primarily by employers to provide pension benefits. In fact, Minnesota Mutual (whose premium is cited) sold only three of these policies during 1982.

A far more typical purchase is a whole life policy; such policies constituted about 75% of the policies sold last year to individual buyers. One major company sold over 300,000 such policies during 1981. For that policy, the premium differential between men and women at age 35 for a face amount of \$100,000 would be \$107 per year. Thus the total cost between ages 35 and 65 would be \$3,210 less for a woman.

In short, a table showing whether women pay more for insurance than men would be more representative of typical experience if it were to reflect the fact that some insurance is purchased by individuals and much more is provided by employers. Such a table would look like this:

<u>Coverage</u>	<u>Cost Differential for Women</u>
Medical (group coverage)	Paid by employer (or differential paid by employer)
Disability (group coverage)	Paid by employer (or differential paid by employer)
Life Insurance	
Individual coverage for \$100,000 of whole life insurance ages 35-65	-\$3,210
Group coverage	Paid by employer (or differential paid by employer)
Pension (group coverage)	Paid by employer (or differential paid by employer)
Automobile	-\$1,840 (as shown in original table).

2. Assertion:

"Under some life insurance policies, a married woman can purchase coverage only up to the amount of coverage held by her husband."

Fact:

There are some policies under which one spouse (husband or wife, as the case may be) is the principal insured, and the amount of coverage on the other spouse (wife or husband) is less, according to a set formula. These policies are

underwritten and sold on a sex-neutral basis: either spouse can be the principal insured. The choice depends on the couple's insurance needs.

3. Assertion:

Premium rates for women in life insurance are calculated on male-based mortality tables and then 'set-back' three years as a substitute at every age to construct a female table.

Fact:

This assertion is out of date. It relates to a time when life insurers were constrained, in practical terms, by state laws which permitted no more than a three-year age setback in calculating minimum reserves and cash values. Three years was appropriate in earlier decades, but now that the difference between male and female mortality has widened, a three-year maximum setback would be too small. The laws were modernized in the 1970's, and there has been a trend toward basing premium rates on sex differentials wider than a three-year age setback.

4. Assertion

Health insurance of private insurance companies often excludes pregnancy and its related complications from coverage."

Fact:

As required by regulation in nineteen states, insurers are generally providing coverage for complications of pregnancy on the same basis as other illness.

5. Assertion:

"Disability income insurance is often not available to women whose jobs are performed at home, while this insurance is available to men with identical job and risk factors."

Fact:

This and the following assertions are, likewise, based on a situation which no longer exists. A few companies do write homemaker disability insurance, but few persons have chosen to purchase such policies. With regard to home-based professional or self-employed women, etc., disability coverage is available to them on the same basis as to men in all states. This equal availability is required by regulations in effect in nineteen states. The regulations are based on a model regulation adopted in 1975 by the National Association of Insurance Commissioners, with the support of the life and health insurance business. A survey made in 1978 found that the 31 large companies surveyed were at that time already complying in all states with virtually all the requirements contained in the model regulation.

6. Assertion:

"Generally, disability insurance policies provide:

Longer waiting periods for women in number of days an insured must be disabled before benefits are payable;

Shorter basic periods--maximum time for which an insured is deemed completely unable to work--usually 5 years for men, 2 years for women, and

Shorter benefit periods--maximum time for which the insured is paid benefits--for women."

Fact:

This problem has also been addressed by state regulations. Insurers are now providing equal treatment of males and females with respect to waiting periods, benefit periods, and all other policy provisions.

7. Assertion:

"Disability income insurance for women may be excluded for periods of disability resulting from medical or surgical treatment of sex-linked disorders."

Fact:

This problem has, likewise, been addressed. Nineteen states have already adopted regulations prohibiting disparate treatment of male and female sex-linked disorders. Insurers are now providing equal treatment of males and females with respect to these benefits in all states.

8. Assertion:

"Premium rates and benefits are computed on the basis of age and sex. The greater longevity of women as a class compared with that of men as a class is cited as the unique reason for giving women lower monthly retirement benefits than men who have paid identical premiums. The U.S. Supreme Court in its 1978 Manhart decision prohibited such disparate treatment between men and women in employer-operated pension plans. Yet, private companies continue to follow such discriminatory practices."

Fact:

The Manhart opinion focused explicitly on the narrow question of whether female employees could be required to contribute more to a pension plan than similarly situated males. The question of whether monthly pension benefits

must be equal for similarly situated males and females has just now come up to the Supreme Court for resolution. The Fact Sheet does not mention that one of the decisions which is being appealed to the Supreme Court, Peters v. Wayne State University, upheld the employer's right to base annuity payments on sex-distinct mortality tables.

9. Assertion:

"Insurance companies could use any number of arbitrary distinctions for their rates, like race and religion. For example, Mormons live longer and blacks have higher mortality rates."

Fact:

None of the factors mentioned is as significant a predictor for life insurance as is sex. With regard to blacks, (1) the male-female mortality differences in the U.S. population are larger than the black-white differences; (2) blacks constitute a much smaller segment of the life insurance market than do women; and (3) even more than is true of whites, the blacks whose economic status gives them the ability to buy a significant amount of life insurance constitute a class with mortality significantly more favorable than that of their racial group as a whole. With regard to Mormons, their favorable mortality can be ascribed to life-style factors which are reflected in life-insurance premium rates.

10. Assertion:

"The insurance industry has attempted to distinguish use of race-based mortality tables from the use of sex-based tables on the grounds that black mortality has fallen strikingly in recent years. However, for many age groups (including 40 and 50) there is a greater difference between black and white mortality than between women and men according to the National Center for Health Statistics. Others have argued that racial and religious distinctions are socio-economic, while gender is biological. That sounds familiar but is highly suspect."

Fact:

As explained above, the blacks who experience relatively high mortality rates are, generally, the ones whose economic conditions do not create an ability to pay for significant amounts of life insurance. In addition, rating factors, such as occupation, which are used in life insurance further diminish the size of any black-white mortality differential that may exist among standard-class individually insured lives.

Our argument is not premised on the existence of a biological cause-and-effect relationship. It is difficult, if not impossible, to prove causality with respect to any particular characteristic or factor. Scientific inquiry relies on findings of a significant correlation in making predictions. Sex correlates more strongly with mortality than do race or religion.

As it happens, however, there are reasons for suspecting a causal relation between sex and mortality. Among them are: (1) The presence of two X chromosomes in

females (as against only one in males), which enables one X chromosome to compensate for any recessive genes in the other; (2) the fact that even before birth, significantly more male fetuses than female fetuses fail to survive.

11. Assertion:

"In 1920 men lived longer than women for almost all age categories."

Fact:

In the United States around 1920 the influenza epidemic distorted the mortality picture by killing a large number of weak persons in 1918, leaving the healthier persons, especially among the males, to exhibit unusually low mortality rates in the 1919-1921 study period.

12. Assertion:

"Today in Hawaii women live 4 years longer than men, while in Wyoming women live 9 years longer. The difference in life expectancy for both sexes between residents of Washington, D.C. and Hawaii is greater than the difference in life expectancy between men and women. Poorly educated women and highly educated women have a greater difference in life expectancy than men and women have . . . and we could go on and on."

Fact:

The residents of any particular state are not homogenous as to occupation, life style, and other characteristics which are taken into account in life insurance premium rates. In other words, much of the difference in mortality among the states is being taken care of by other factors.

In any event, the difference among white males in life expectancy at birth between Hawaii and the District of Columbia, based on deaths in years 1969-71, was only 4.7 years at age 25 and 4.2 years at age 45, while the difference between white males and white females for the United States as a whole was 6.7 years and 6.0 years, respectively, at those ages.

Even if geography, of itself, were a highly significant mortality factor, it would be relatively ineffective to use as a life insurance classification, because of the mobility of the United States populace. Insurance companies utilize personal health habits and other personal criteria to set rates if such criteria are both cost-effective and fair. There would be no gain to any insured person if the administrative cost of classifying the lowest-rated class exceeded the claim cost difference which could be expected.

We are aware of a study of 1960 mortality by education. The mortality ratios (which compare the mortality of a subgroup with that of the total group) are as follows:*/

*/ Introduction to Demography, Mortimer Spiegelman, 1968, 96.

<u>Years of School Completed</u>	<u>Males</u>			<u>Females</u>		
	25 and <u>over</u>	25 to <u>64</u>	65 and <u>over</u>	25 and <u>over</u>	25 to <u>64</u>	65 and <u>over</u>
Total	100%	100%	100%	100%	100%	100%
High School:						
1-3 years	102	103	} 98	88	91	} 94
4 years	98	91		92	87	
College:						
1 or more yrs.	89	77	100	73	81	70

We have omitted levels of education below high school from the above, because persons who have completed less than a year of high school are not a significant factor in the individual life insurance market.

In the above table, the mortality rate of a subgroup is compared to that of a group. For example, females between the ages of 25 and 64 with four years of high school experienced a mortality rate that was 87% of the rate for all females in that age bracket. Clearly, the differences between the ratios for college and the ratios for "high school" are much smaller than the overall sex differential among standard insured lives, which is 60% vs. 100%.

The National Center for Health Statistics informs us that it has not had a study on education done since the one described above.

13. Assertion:

The "Fact Sheet" devotes nearly a full page to selected recent court decisions

Fact:

Neither Frontiero v. Richardson nor Craig v. Boren had any bearing on insurance matters. Frontiero concerned a prohibited practice of the U.S. Military and Craig involved driving ages. Manhart involved a narrow holding with regard to an uninsured plan. The cases following Manhart (Arizona Governing Committee v. Norris, Spirt v. TIAA-CREF, and Peters v. Wayne State University) are directly on point and all are pending before the U.S. Supreme Court. Norris will be argued March 28, 1983 and a decision is expected by early summer. Spirt and Peters have virtually identical facts with one court (Peters) upholding the use of sex-distinct mortality tables and the other court (Spirt) finding against the insurer. Clearly, as a judicial matter, the question is unresolved as of today.

14. Assertion:

"Grouping by sex is an administratively easy method of categorizing risk, but much more accurate categories for insurance purposes would include physical condition, family health, leisure time, exercise habits, occupation, personality characteristics, life style, etc."

Fact:

Most of the listed criteria are used in life-insurance rating. One might reasonably ask whether the entire

observed sex differential at a given time could be traced to differences in other factors, such as life style. This question was addressed by a doctoral candidate at the University of Minnesota, Deborah Wingard.^{*/} Ms. Wingard was studying problems of health and health care, and her work had no connection with insurance or the insurance business. She applied multivariate analysis to eliminate the influence of sixteen different factors, including ten life-style factors, on the observed differential. For example, when she eliminated the effect of smoking, the mortality differential between the sexes got smaller. When she adjusted for all sixteen factors, however, she found, contrary to her expectations, that the sex differential got slightly larger, not smaller. In other words, the sixteen factors did not offer any explanation for the mortality gap.

15. Assertion:

"86% of women do not outlive their male counterparts, and women are therefore being penalized for the 16% who do."

Fact:

This argument has been advanced by some proponents of legislation requiring unisex actuarial tables, such as

^{*/} "The Sex Differential in Mortality Rates: Demographic and Behavioral Factors", Deborah L. Wingard, presented in June 1980 to the Society of Epidemiologic Research.

Professor Barbara Bergmann. The theory begins by pointing out that it is possible to match approximately 84 percent of males and females as to the years of age in which they die; that is, if a group of 100,000 males, age 65, and a group of 100,000 females, age 65, were used as a test sample, when all of the members of the two groups had died, it would be found that approximately 84,000 of the females had died at the same ages as approximately 84,000 of the males. Thus, because 16 percent of the females live longer than a corresponding percentage of the males, it is supposedly unfair to penalize the other 84 percent of the females, who can be paired with males as to age at death, by charging females higher annuity premiums.

The logical fallacy and economic irrelevance of the year of death pairing approach is obvious when this is viewed in terms of actual dollars. If an insurer (or an employer) were to issue annuities of \$1,000 per year to each of 100,000 men and 100,000 women experiencing the mortality rates referred to in the Bergmann study, it would have to make payments of \$100,000,000 in the first year to each group. In the fifth year the payments to the male annuitants would have dropped to \$90,329,000, while those to the female annuitants would amount to \$94,053,000, and in the tenth year annuity payments would have been \$73,657,000 to males, and \$83,328,000

to females. Over the course of fifty years, an aggregate of \$1.561 billion would have been paid to male annuitants and \$1.926 billion to females. The females, as a group, would have received \$365 million--23 percent--more than the males.

Looked at from another perspective, if benefits of \$1,000 per year were to be paid to each of 100,000 males beginning at age 65 from a fund earning 5 percent, after taxes and all expenses, such a fund would have to be \$1,040,000,000. The corresponding fund needed for female annuitants would amount to \$1,194,000,000.

Alternatively, a fund equal to that used to provide \$1,000 a month to male annuitants could provide \$870 per month to female annuitants. If female annuitants were to draw \$1,000 per month from this last fund rather than \$870 per month, it would be exhausted after 18 years. For those females surviving beyond that period and receiving no further payments, the overlap theory would provide cold comfort.

Professor Robert J. Myers, formerly Chief Actuary for the Social Security Administration for 23 years, and Professor Emeritus of Actuarial Science at Temple University, criticized the overlap theory in a 1977 article in Civil Rights Digest, a publication of the U.S. Commission on Civil Rights.

He noted that, while the years of death of 84 percent of men and women coincide, the 16 percent of unmatched men

would have an average age at death of approximately 70 years, and the average age at death of the unmatched women would be approximately 88. He then illustrated the absurdity of the overlap analysis by observing that if the years of death of members of a group of 1,000 men at age 65 are matched with the years of death of a group of men aged 60, there will be an overlap of approximately 85 percent. Thus, under that theory, it presumably would be improper or unfair to utilize mortality tables based on age in setting insurance premiums. Of course, the logical result of following this mode of analysis is to dispense with any actuarial analysis at all; a result which would be at odds with a voluntary private insurance business.

16. Assertion:

Potentially, one of the greatest financial impacts would be topping out existing pension plans. The U.S. Labor Department estimates that the unfunded liability nationally for private pension plans would only represent 1/1000 of the industry's assets and reserves.

Fact:

The seemingly harmless fraction of 1/1000 is staggering in context. The Council estimates that the total assets of all legal reserve U.S. life insurance companies as of year-end 1982 was \$583,200,000,000. Applying the fraction of 1/1000, the topping up cost alone would be \$583.2 million! More to the point, T. Timothy Ryan, Solicitor, U.S. Department of Labor, submitted a statement to the House

Subcommittee on Commerce, Transportation and Tourism on February 22, 1983. Regarding the "topping up" cost, he stated:

"First, the short-run pension costs of H.R. 100 could be substantial, upwards to \$1.7 billion annually if employers are required to top up total payments for all retirees, as we understand the bill to require."

17. Assertion:

"The National Association of Insurance Commissioners concluded that 'as rating characteristics, sex and marital status are seriously lacking in justification and should therefore be prohibited as classification factors' in automobile insurance."

Fact:

The NAIC did not follow through with this recommendation of one of its task forces because it did not agree with those recommendations. In order to assist the NAIC in its deliberations an Advisory Committee of insurance industry experts was appointed to study the issues and report back. In May 1979 a 432-page report, "Private Passenger Automobile Insurance Risk Classification" was presented by the Advisory Committee. After reviewing that study, the NAIC decided not to accept the task force recommendations. It may be noted that the National Association of Insurance Commissioners has addressed the question of sex-distinct premium rates in life and health insurance as well as in automobile insurance. In 1980 the NAIC adopted a resolution endorsing the use, in life and

health insurance, of "a risk classification system which appropriately reflects cost differences by sex or both cost differences by sex and distribution by sex as being in the best interests of buyers of insurance".

More to the point, the NAIC enacted a resolution on February 17, 1983 in which it urged that similar legislation before the U.S. House of Representatives not be reported by the House subcommittee. The resolution also observes the need for "further studies to determine the bill's impact on the financial stability of the insurance industry."

MINUTES OF THE MEETING
BUSINESS AND INDUSTRY COMMITTEE
MONTANA STATE SENATE

March 22, 1983

The Business and Industry Committee met in Executive Session on March 22, 1983, at 6:05 p.m. The meeting was called to order by Chairman Allen Kolstad in Room 405, State Capitol.

ROLL CALL: All members of the Committee were present.

ACTION ON HOUSE BILL 100: Senator Dover made the motion that on page 4, line 24 through line 1 on page 5, strike subsection 5 in its entirety. Senator Lee seconded the motion.

The Committee voted 7-3 with Senators Regan, Christiaens and Fuller voting no, that the proposed amendment to HOUSE BILL 100 BE ADOPTED.

Senator Dover made the motion that on page 4, line 19, following "environment" strike remainder of line 19 through "production" on line 20. Senator Lee seconded the motion.

The Committee voted 7-3 with Senators Regan, Christiaens and Fuller voting no, that the proposed amendment to HOUSE BILL 100 BE ADOPTED.

Senator Dover made the motion that on page 2, line 11, following "is" strike remainder of line 11 through "as" on line 12 and insert "at" and on page 2, line 12, following "minimum" insert "in". Senator Lee seconded the motion.

The Committee voted 7-3 with Senator Regan, Christiaens and Fuller voting no, that the proposed amendments to HOUSE BILL 100 BE ADOPTED.

Senator Dover made the motion that on page 2, line 18, following "union" strike remainder of line 18 in its entirety and insert "or" and on page 2, line 19, following "development" strike remainder of line 19 through "banking company" and insert "corporation created pursuant to Title 32, Chapter 4". Senator Lee seconded the motion.

The Committee voted unanimously, by voice vote, that the proposed amendments to HOUSE BILL 100 BE ADOPTED.

Senator Dover made the motion that on page 10, line 14, following "accountability" strike remainder of line 14 through "PUBLIC" on line 16 and insert the previous language. Senator Lee seconded the motion.

The Committee voted 8-2 with Senators Fuller and Christiaens voting no that the proposed amendments to HOUSE BILL 100 BE ADOPTED.

Senator Dover made the motion that on page 4, line 10, following "made" insert "when sufficient funds are not available to fund all possible investments", strike "shall" and insert "may". Senator Lee seconded the motion.

The Committee voted 9-1 with Senator Regan voting no that the proposed amendments to HOUSE BILL 100 BE ADOPTED.

Senator Lee made the motion that House Bill 100 As Amended Be Concurred In. Senator Goodover seconded the motion.

The Committee voted 9-1 with Senator Boylan voting no that HOUSE BILL 100 AS AMENDED BE CONCURRED IN.

Senator Towe will carry this bill on the floor.

ACTION ON HOUSE BILL 358: Senator Regan made the motion that House Bill 358 Be Concurred In. Senator Fuller seconded the motion.

The Committee voted, by Roll Call Vote, 8-2 with Senators Goodover and Severson voting no that HOUSE BILL 358 BE CONCURRED IN.

Senator Van Valkenburg will carry this bill on the floor.

ACTION ON HOUSE BILL 371: Senator Lee made the motion that House Bill 371 Be Concurred In. Senator Severson seconded the motion.

The Committee voted unanimously, by voice vote, that HOUSE BILL 371 BE CONCURRED IN.

Senator Towe will carry this bill on the floor.

ACTION ON HOUSE BILL 464: Senator Dover made the motion that House Bill 464 Be Concurred In. Senator Lee seconded the motion.

Senator Goodover made a substitute motion that House Bill 464 Be Not Concurred In. Senator Regan seconded the motion.

The Committee voted, by Roll Call Vote, 6-4, with Senators Dover, Fuller, Gage and Kolstad voting no that HOUSE BILL 464 BE NOT CONCURRED IN.

Senator Regan will carry this bill on the floor.

ACTION ON HOUSE BILL 685: Senator Fuller made the motion that on page 6, line 14, strike "March" and insert "January". Senator Lee seconded the motion.

The Committee voted unanimously, by voice vote, that the proposed amendment to HOUSE BILL 685 BE ADOPTED.

Senator Goodover made the motion that on page 4, line 2, following "businesses" strike remainder of line 2 through "are" on line 3 and on page 4, line 3, following "Montana" strike remainder of line 3 through "Montana" on line 4. Senator Lee seconded the motion.

The Committee voted unanimously, by voice vote, that the proposed amendments to HOUSE BILL 685 BE ADOPTED.

Senator Dover made the motion that on page 16, line 12, following "11" insert "and 16 and 17". Senator Fuller seconded the motion.

The Committee voted unanimously, by voice vote, that the proposed amend-

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date March 22, 1983 House Bill No. 358 Time

NAME	YES	NO
PAUL F. BOYLAN	✓	
B. F. CHRIS CHRISTIAENS	✓	
HAROLD L. DOVER	✓	
DAVID FULLER	✓	
DELWYN GAGE	✓	
PAT M. GOODOVER		✓
GARY P. LEE, VICE CHAIRMAN	✓	
PAT REGAN	✓	
PAT M. SEVERSON		✓
ALLEN C. KOLSTAD, CHAIRMAN	✓	

Mimi Fancher
Secretary

ALLEN C. KOLSTAD
Chairman

Motion: Be Concurred In

(Include enough information on motion -- put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

March 22, 19 83

MR. **PRESIDENT**

We, your committee on **BUSINESS AND INDUSTRY**

having had under consideration **HOUSE** Bill No. **358**

BROWN (VAN VALKENBURG)

Respectfully report as follows: That **HOUSE** Bill No. **358**

BE CONCURRED IN

~~XXXXXX~~

March 24, 1983

COMMITTEE OF THE WHOLE AMENDMENT

That House Bill No. 358 be amended as follows:

1. Title, line 8.

Following: "DATE"

Insert: "AND AN APPLICABILITY CLAUSE"

2. Page 1, line 23.

Following: line 22

Insert: "Section 3. Applicability. [This act] does not apply to any insurance policy, plan, coverage, or any pension or retirement plan, program, or coverage in effect prior to October 1, 1985."

Renumber: subsequent section

1 HOUSE BILL NO. 358
2 INTRODUCED BY J. BROWN, YARDLEY,
3 J. JENSEN, VELEBER, ADDY
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROHIBIT
6 DISCRIMINATION ON THE BASIS OF SEX OR MARITAL STATUS IN THE
7 ISSUANCE OR OPERATION OF INSURANCE POLICIES AND RETIREMENT
8 PLANS; ~~AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY~~
9 ~~CLAUSE.~~"

10

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12 Section 1. Discrimination in insurance and retirement
13 plans. It is an unlawful discriminatory practice for any
14 financial institution or person to discriminate solely on
15 the basis of sex or marital status in the issuance or
16 operation of any type of insurance policy, plan, or coverage
17 or in any pension or retirement plan, program, or coverage,
18 including discrimination in regard to rates or premiums and
19 payments or benefits.

20 Section 2. Codification instruction. Section 1 is
21 intended to be codified as an integral part of Title 49,
22 chapter 2, part 3, and the provisions of Title 49 apply to
23 section 1.

24 ~~SECTION 3. APPLICABILITY. THIS ACT DOES NOT APPLY TO~~
25 ~~ANY INSURANCE POLICY, PLAN, COVERAGE, OR ANY PENSION OR~~

1 RETIREMENT PLAN, PROGRAM, OR COVERAGE IN EFFECT PRIOR TO
2 OCTOBER 1, 1985.
3 SECTION 4. EFFECTIVE DATE. THIS ACT IS EFFECTIVE ~~ANY~~
4 OCTOBER 1, 1984 1985.

-End-